

FEDERAL REGISTER

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Air Coordinating Committee

Effective upon publication in the FEDERAL REGISTER, the headnote and paragraph (a) of § 6.351 are revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 60-10948; Filed, Nov. 23, 1960; 8:50 a.m.]

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.450]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

Designation of Differential Posts

Section 325.15 *Designation of differential posts* is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (a) is amended by the deletion of the following:

Belgian Congo (including Ruanda-Urundi), all posts.
Somaliland, Trust Territory of, all posts.
Wanta, Taiwan, China.

2. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (b) is amended by the deletion of the following:

Grand Turk Island, T.W.I.

3. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (c) is amended by the deletion of the following:

Dakar, Senegal.

4. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (d) is amended by the deletion of the following:

Boulhaut (Fedala), Morocco.

5. Effective as of August 1, 1960, paragraph (a) is amended by the addition of the following:

Mali, Republic of, all posts.

6. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (a) is amended by the addition of the following:

Congo, Republic of (including Ruanda-Urundi), all posts.
Somali Republic, all posts.

7. Effective as of the beginning of the first pay period following May 28, 1960, paragraph (c) is amended by the addition of the following:

St. Lucia, T.W.I.

8. Effective as of the beginning of the first pay period following November 12, 1960, paragraph (c) is amended by the addition of the following:

Dakar, Republic of Senegal.

9. Effective October 16, 1960, paragraph (d) is amended by the addition of the following:

Habana, Cuba.
Nicaro, Cuba.
Santiago de Cuba, Cuba.

(Secs. 102, 401, E.O. 10000, 13 F.R. 5453, 3 CFR, 1948 Supp., E.O. 10623, E.O. 10636, 20 F.R. 5297, 7025, 3 CFR, 1955 Supp.)

Dated: November 3, 1960, Washington, D.C.

For the Secretary of State.

LIVINGSTON T. MERCHANT,
Under Secretary for Political Affairs.

[F.R. Doc. 60-10944; Filed, Nov. 23, 1960; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR BARLEY CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following counties are hereby added to the lists of counties published December 29, 1959, May 18, 1960, and June 14, 1960, which were designated for barley crop insurance for the 1961 crop year.

IDAHO

Lincoln.

MINNESOTA

Chippewa.
Mahnomen.
Pennington.

Red Lake.
Roseau.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] F. N. McCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 60-10919; Filed, Nov. 23, 1960; 8:47 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR DRY EDIBLE BEAN CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published May 18, 1960, which were designated for dry edible bean crop insurance for the 1961 crop year.

IDAHO

Lincoln.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] F. N. McCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 60-10920; Filed, Nov. 23, 1960; 8:47 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR COTTON CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published May 18, 1960, which were designated for cotton crop insurance for the 1961 crop year.

SOUTH CAROLINA

Chester.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] F. N. McCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 60-10921; Filed, Nov. 23, 1960; 8:47 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR FLAX CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published May 18, 1960, which were designated for flax crop insurance for the 1961 crop year.

MINNESOTA

Red Lake.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL]

F. N. McCARTNEY,

Manager,

Federal Crop Insurance Corporation.

[F.R. Doc. 60-10922; Filed, Nov. 23, 1960; 8:47 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, as amended, the following counties are hereby added to the lists of counties published December 29, 1959, May 18, 1960, and June 14, 1960, which were designated for wheat crop insurance for the 1961 crop year.

IDAHO

Lincoln.

MINNESOTA

Chippewa.
Pennington.Red Lake.
Roseau.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL]

F. N. McCARTNEY,

Manager,

Federal Crop Insurance Corporation.

[F.R. Doc. 60-10923; Filed, Nov. 23, 1960; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 570; Reg. SR-443]

PART 49—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Authority to Deviate From Certain Provisions of the Civil Air Regulations Within the State of Alaska

The Federal Aviation Agency has recently received requests from various operators in Alaska for authority to transport in cargo aircraft within the State of Alaska flammable liquids, viz., gasoline and fuel oil, in larger quantities than presently permitted by Part 49 of the Civil Air Regulations and Part 72 of the Interstate Commerce Commission Regulations.

These operators state that they have the need to transport gasoline and fuel oil supplies in 55-gallon drums to mining sites, exploration groups, and small villages in relatively remote areas, as well as to the various outlying stations served by scheduled and charter services. Although water transportation to some of these locations is possible at certain times, surface freezing during the major part of the year makes air transporta-

tion the only practicable means of resupply. Annual resupply by stockpiling fuel in 55-gallon drums, during the limited time when surface transportation is possible, presents a fuel contamination problem, due to the water and rust accumulation which develops in the drums. This is especially critical where aviation fuel is concerned.

Section 49.41(a) of Part 49 of the Civil Air Regulations permits transportation in cargo aircraft of any article packed, marked, and labeled in accordance with ICC Regulations for transportation by rail express. The ICC Regulations do not permit the carriage by rail express of gasoline and fuel oil in quantities exceeding 10 gallons. They do, however, permit larger quantities to be shipped in an outside container aboard trucks and in freight carriage, and 55-gallon drums have been approved for such shipments. Section 49.2 provides, in emergency situations or where other forms of transportation are impracticable, for deviation from any of the provisions of Part 49 for a particular flight subject to such terms, conditions, and limitations as the Administrator finds necessary in the interest of safety in air commerce.

Certain of the operators in Alaska have previously been granted individual authorizations for the carriage of gasoline and fuel oil in the larger quantities under consideration. The experience gained under these individual authorizations has indicated that such operations can be conducted without an adverse effect upon safety. Since there is a continuing need to transport these flammable liquids and an authorization granted under § 49.2 for a particular flight is not sufficient to meet this need, special authority for a series of flights is required. Therefore, it would be consistent with present procedures to grant special authority to such operators to deviate from the provisions of Part 49 to the extent provided herein.

The provisions of this Special Civil Air Regulation authorize deviations from Part 49 only with respect to the carriage of gasoline and fuel oil in 55-gallon drums aboard cargo aircraft, and the shipper and operator are required to comply with the requirements of Part 49 in all other respects.

Prior to engaging in operations pursuant to this Special Civil Air Regulation, each operator will be required to furnish the Chief, Flight Standards Field Division, Region 5, with a list showing the type aircraft, registration number, airports to be used, and the area in which the aircraft is to be operated.

This special regulation shall continue in effect until October 31, 1962. Prior to this date, the experience gained under this authorization will be evaluated for the purpose of considering the incorporation of the substance of this rule in the permanent body of the Civil Air Regulations.

Since this special regulation grants relief and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and good cause exists for making it effective immediately.

In consideration of the foregoing, the following Special Civil Air Regulation is hereby adopted to become effective:

1. Contrary provisions of § 49.41(a) of Part 49 of the Civil Air Regulations notwithstanding, and subject to the conditions hereinafter set forth, any operator of aircraft while conducting operations entirely within the State of Alaska, may deviate from the provisions of such section to the extent necessary to permit the transportation in cargo aircraft of 55-gallon drums of gasoline or fuel oil.

(a) Prior to engaging in operations pursuant to this Special Civil Air Regulation, each operator furnishes the Chief, Flight Standards Field Division, Region 5, with a list showing the type aircraft, registration number, airports to be used, and the area in which the aircraft is to be operated. All operations must be conducted with the aircraft and at the places listed unless express approval to do otherwise is obtained from the Chief, Flight Standards Field Division.

(b) Gasoline and fuel oil are prepared for shipment in 55-gallon containers which meet Specification 5, 5B, 5C, or 5M prescribed in Part 78 of the Interstate Commerce Commission Regulations.

(c) Each container is inspected prior to and after being loaded aboard the aircraft to determine that it is airtight and leakproof. Any defective container shall be rejected for shipment.

(d) Each container is loaded with the filling hole up, and blocked, braced, and secured so as to prevent change of position by ordinary shocks incident to transportation.

(e) The cargo compartment is ventilated so as to prevent accumulation of fumes from the contents of the containers.

(f) Other cargo carried in the same compartment with flammable liquid containers is blocked, braced, and secured so as to prevent change of position by ordinary shocks incident to transportation.

(g) Each container is conspicuously labeled with a flammable liquids label or plainly marked to indicate its contents. In lieu thereof, "DANGEROUS—FLAMMABLE LIQUID CARGO" may be conspicuously and legibly marked on the outside of the cargo doors.

(h) No smoking, lighting of matches, or carrying of any flame or lighted cigar, pipe, or cigarette is permitted while loading or unloading the aircraft, or during flight.

(i) Loading and unloading of flammable liquids are not to be accomplished while the aircraft engines are running.

(j) The operator or a competent authorized employee of the operator must supervise the loading of the aircraft, inspect each finished load, and certify as to its compliance with the pertinent requirements of this Special Civil Air Regulation. The operator must maintain a record of such inspections, showing the dates, quantities carried, and the results of the inspections made.

(k) Persons other than crewmembers are not carried aboard the aircraft while transporting flammable liquids under this authorization.

This Special Civil Air Regulation shall expire October 31, 1962, unless sooner superseded or rescinded by the Federal Aviation Agency.

(Secs. 313(a), 601, 902(h); 72 Stat. 752, 775, 784; 49 U.S.C. 1354(a), 1421, 1472)

Issued in Washington, D.C., on November 14, 1960.

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-10951; Filed, Nov. 23, 1960; 8:51 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION
REGULATIONS

[Airspace Docket No. 59-NY-60]

PART 600—DESIGNATION OF
FEDERAL AIRWAYS

Modification of Amendment

On July 8, 1960, there was published in the FEDERAL REGISTER (25 F.R. 6418) an amendment to § 600.6139 of the regulations of the Administrator (Airspace Docket No. 59-NY-60). This amendment, to be effective January 12, 1961, modified VOR Federal airway No. 139 concurrently with the commissioning of VORs near Snow Hill, Md., Sea Isle, N.J., and Whitman, Mass.

The commissioning date of the Whitman, Mass., VOR has been rescheduled. Therefore, it is necessary to postpone the change in designation of V-139 between Providence, R.I., and Boston, Mass., until September 21, 1961. The modification of the caption of § 601.6139 contained in Airspace Docket No. 59-NY-60 will not be affected by this postponement and will remain as described therein.

Since thirty days will elapse from the time of publication of this action to the effective date of the rule as initially adopted, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), effective immediately, Airspace Docket No. 59-NY-60 is hereby modified as follows:

1. Section 600.6139 (14 CFR 600.6139) is amended to read:

§ 600.6139 VOR Federal airway No. 139 (Cape Charles, Va., to Sea Isle, N.J., and Mastic, N.Y., to Boston, Mass.)

From the Cape Charles, Va., VORTAC via the Snow Hill, Md., VOR; to the Sea Isle, N.J., VOR. From the INT of the Riverhead, N.Y., VORTAC 146° True and the Hampton VOR 239° True radials via the Hampton, N.Y., VOR; INT of the Hampton VOR 059° True and the Providence VOR 212° True radials; Providence, R.I., VOR; INT of the Providence VOR 043° True and the Boston VORTAC 133° True radials; to the Boston, Mass., VORTAC. The portions of the airway which lie within the geographic limits of, and between the designated altitudes of, the Bethany Beach Restricted Area (R-67) and the Chincoteague Inlet Restricted Area (R-45) are excluded during these areas' time of designation.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10931; Filed, Nov. 23, 1960; 8:48 a.m.]

[Airspace Docket No. 60-KC-67]

PART 600—DESIGNATION OF
FEDERAL AIRWAYSPART 601—DESIGNATION OF THE
CONTINENTAL CONTROL AREA,
CONTROL AREAS, CONTROL
ZONES, REPORTING POINTS, POSI-
TIVE CONTROL ROUTE SEGMENTS,
AND POSITIVE CONTROL AREASRevocation of Federal Airway, Asso-
ciated Control Areas and Reporting
Points

On September 9, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8722) stating that the Federal Aviation Agency proposed to revoke, in its entirety, Red Federal airway No. 63, its associated control areas and reporting points.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, Parts 600 and 601 (14 CFR 600, 601) are amended as follows:

1. Section 600.263 *Red Federal airway No. 63 (Bangor, Mich., to Jackson, Mich.)* is revoked.

2. Section 601.263 *Red Federal airway No. 63 control areas (Bangor, Mich., to Jackson, Mich.)* is revoked.

3. Section 601.4263 *Red Federal airway No. 63 (Bangor, Mich., to Jackson, Mich.)* is revoked.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10933; Filed, Nov. 23, 1960; 8:48 a.m.]

[Airspace Docket No. 60-FW-58]

PART 600—DESIGNATION OF
FEDERAL AIRWAYSPART 601—DESIGNATION OF THE
CONTINENTAL CONTROL AREA,
CONTROL AREAS, CONTROL
ZONES, REPORTING POINTS, POSI-
TIVE CONTROL ROUTE SEGMENTS,
AND POSITIVE CONTROL AREASRevocation of Federal Airway, Asso-
ciated Control Areas and Reporting
Points

On September 9, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8722) stating

that the Federal Aviation Agency proposed to revoke, in its entirety, Red Federal airway No. 70, its associated control areas and reporting points.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reason stated in the notice, Parts 600 and 601 (14 CFR 600, 601) are amended as follows:

1. Section 600.270 *Red Federal Airway No. 70 (Midland, Tex., to Lubbock, Tex.)* is revoked.

2. Section 601.270 *Red Federal airway No. 70 control areas (Midland, Tex., to Lubbock, Tex.)* is revoked.

3. Section 601.4270 *Red Federal airway No. 70 (Midland, Tex., to Lubbock, Tex.)* is revoked.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10934; Filed, Nov. 23, 1960; 8:48 a.m.]

[Airspace Docket No. 60-LA-70]

PART 600—DESIGNATION OF
FEDERAL AIRWAYSPART 601—DESIGNATION OF THE
CONTINENTAL CONTROL AREA,
CONTROL AREAS, CONTROL
ZONES, REPORTING POINTS, POSI-
TIVE CONTROL ROUTE SEGMENTS,
AND POSITIVE CONTROL AREASModification and Revocation of Fed-
eral Airways and Associated Con-
trol Areas

On August 6, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 7466) stating that the Federal Aviation Agency (FAA) proposed to extend VOR Federal airway No. 26 and its associated control areas westward from Cherokee, Wyo., to Delta, Utah, and revoke VOR Federal airway No. 285 and its associated control areas in its entirety. On September 21, 1960, a Modification of Proposal was published in the FEDERAL REGISTER (25 F.R. 9061) stating that the Federal Aviation Agency proposed to extend Vector 26 from Myton, Utah, to Delta via the Delta VOR 054° True and the Myton VOR 256° True radials in lieu of a direct alignment as originally proposed.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the mak-

ing of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice and the modification of proposal, the following actions are taken:

1. In Parts 600 and 601 (14 CFR 600, 601) the following changes are made:

(a) Section 600.6285 VOR Federal airway No. 285 (Myton, Utah, to Rawlins, Wyo.) is revoked.

(b) Section 601.6285 VOR Federal airway No. 285 control areas (Myton, Utah, to Rawlins, Wyo.) is revoked.

2. In § 600.6026 (14 CFR 600.6026; 25 F.R. 5481) the following changes are made:

(a) In the caption "(Cherokee, Wyo., to Cleveland, Ohio)" is deleted and "(Delta, Utah, to Cleveland, Ohio)" is substituted therefor.

(b) In the text "From the Cherokee, Wyo., VOR via the Casper, Wyo., VOR;" is deleted and "From the Delta, Utah, VOR via the INT of the Delta VOR 054° True and the Myton, VOR 256° True radials; Myton, Utah, VOR; Cherokee, Wyo., VOR; Casper, Wyo., VORTAC;" is substituted therefor.

3. In the caption of § 601.6026 (14 CFR 601.6026) "(Cherokee, Wyo., to Cleveland, Ohio)" is deleted and "(Delta, Utah, to Cleveland, Ohio)" is substituted therefor.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10929; Filed, Nov. 23, 1960;
8:48 a.m.]

[Airspace Docket No. 60-KC-16]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSI- TIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Amendments

On June 17, 1960, there were published in the FEDERAL REGISTER (25 F.R. 5451) amendments to Parts 600 and 601 of the regulations of the Administrator. These amendments, to be effective January 12, 1961, designated VOR Federal airway No. 470 from Lakehead, Ont., to Sault Ste. Marie, Mich., concurrent with the commissioning of a VORTAC near Marquette, Mich.

Subsequent to the publication of the above amendments, the Department of Transport of Canada requested consideration be given to terminating Victor 470 at the Whitefish VOR in order to avoid

dual designation of airways between Whitefish and Sault Ste. Marie. The Federal Aviation Agency concurs in this request and action is taken herein to reflect this change in the description of Victor 470.

Additionally, the commissioning date of the Marquette VORTAC has been re-scheduled. Therefore, it is necessary to postpone the effective date of the above-mentioned amendments until June 1, 1961.

Since this action effects no substantive change to the Rule as initially adopted and since thirty days will elapse from the time of publication of these amendments as modified herein to this new effective date, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), effective immediately, Airspace Docket No. 60-KC-16 (25 F.R. 5451) is hereby modified as follows:

1. In § 600.6470, the following changes are made:

(a) In the caption "(Lakehead, Ontario, to Sault Ste. Marie, Mich.);" is deleted and "(Lakehead, Ontario, to Whitefish, Mich.);" is substituted therefor.

(b) In the text "Whitefish VOR; to the Sault Ste. Marie, Mich., VOR, including a north alternate via the INT of the Whitefish VOR 084° True and the Sault Ste. Marie VOR 328° True radials." is deleted and "to the Whitefish VOR." is substituted therefor.

2. In § 601.6470, the following changes are made:

(a) In the caption "(Lakehead, Ontario, to Sault Ste. Marie, Mich.);" is deleted and "(Lakehead, Ontario, to Whitefish, Mich.);" is substituted therefor.

(b) In the text "All of VOR Federal airway No. 470 including a north alternate." is deleted and "All of VOR Federal airway No. 470." is substituted therefor.

3. "Effective 0001 e.s.t. January 12, 1961" is deleted and "effective 0001 e.s.t. June 1, 1961" is substituted therefor.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10930; Filed, Nov. 23, 1960;
8:48 a.m.]

[Airspace Docket No. 60-NY-85]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSI- TIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Area Extension

On September 2, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8491) stating that the Federal Aviation Agency pro-

posed to modify the Berlin, N.H., control area extension.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, § 601.1355 (14 CFR 601.1355) is amended to read:

§ 601.1355 Control area extension (Berlin, N.H.).

Within 8 miles E and 5 miles W of the 334° True bearing from the Berlin, N.H., RBN extending from the RBN to 17 miles NW; within 5 miles S and 8 miles N of the 248° True bearing from the Whitefield, N.H., RBN extending from the RBN to 17 miles SW; within 5 miles either side of a line extending from the Berlin RBN to the Whitefield RBN.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10927; Filed, Nov. 23, 1960;
8:48 a.m.]

[Airspace Docket No. 60-WA-94]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSI- TIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Zone

On September 14, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8824) stating that the Federal Aviation Agency proposed to modify the Wake Island control zone.

Since this action involves the designation of navigable airspace outside of the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, § 601.2272 (14 CFR 601.2272) is amended to read:

§ 601.2272 Wake Island control zone.

Within a 5-mile radius of Wake Island (latitude 19°18'00" N., longitude 166°38'00" E.), within 2 miles either side of the Wake Island VORTAC 306° True radial extending from the 5-mile radius zone to 12 miles NW of the VORTAC; within 2 miles either side of the 101° True bearing from the Wake Island high powered RBN extending from the 5-mile radius zone to 12 miles E of the RBN; and within 2 miles either side of the 281° True bearing from the Wake Island low powered RBN extending from the 5-mile radius zone to 12 miles W of the RBN.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a) and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10928; Filed, Nov. 23, 1960;
8:48 a.m.]

[Airspace Docket No. 60-FW-24]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Revocation of Control Zone

On June 14, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 5307) stating that the Federal Aviation Agency proposed to modify the Greenville, Miss., control zone. On September 23, 1960, a modification of proposal was published in the FEDERAL REGISTER (25 F.R. 9151) stating that the Federal Aviation Agency proposed to revoke the Greenville control zone.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, and the modification of proposal, Part 601 (14 CFR 601) is amended as follows:

Section 601.2438 Greenville, Miss., control zone. is revoked.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-10932; Filed, Nov. 23, 1960;
8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7195 o.]

PART 13—PROHIBITED TRADE PRACTICES

Hoving Corp.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods*: § 13.30-30 *Fur Products Labeling Act*. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely*: § 13.1108-45 *Fur Products Labeling Act*. Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: § 13.1185-30 *Fur Products Labeling Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*: § 13.1845-30 *Fur Products Labeling Act*; § 13.1852 *Formal regulatory and statutory requirements*: § 13.1852-35 *Fur Products Labeling Act*; § 13.1865 *Manufacture or preparation*: § 13.1865-40 *Fur Products Labeling Act*; § 13.1886 *Quality, grade or type*: § 13.1900 *Source or origin*: § 13.1900-40 *Fur Products Labeling Act*; § 13.1900-40(b) *Place*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Hoving Corporation, New York, N.Y., Docket 7195, September 23, 1960]

The complaint in this case charged a corporation trading as "Bonwit Teller", with retail stores in New York City, Chicago, Cleveland, and other cities, with violating the Fur Products Labeling Act by labeling which deceptively identified the animals producing certain furs or named an additional animal; by advertising in newspapers and otherwise which failed to disclose the names of animals producing certain furs or the country of origin of imported furs, failed to disclose when fur products contained artificially colored or cheap or waste fur, and contained the name of another animal than that producing certain fur; and by failing in other respects to comply with labeling and invoicing requirements.

Denying respondent's appeal, the Commission on September 23 adopted the initial decision, with minor modification, as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondent, Hoving Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in

the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by: Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

B. Falsely or deceptively invoicing fur products by: Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose the name or names of the animal or animals producing the "fur" and "fur product" are defined in as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations;

2. Fails to disclose that the fur product or fur is bleached, dyed or otherwise artificially colored, when such is the fact;

3. Fails to disclose that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

4. Contains the name of an animal in addition to the name of the animal that produced the fur;

5. Fails to disclose the name of the country of origin of imported furs contained in fur products.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondent, Hoving Corporation, a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order contained in said initial decision.

Issued: September 23, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-10906; Filed, Nov. 23, 1960;
8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

PART 595—FOREIGN PURCHASES

Agreement With Canada

Add new § 595.503-51, to read as follows:

§ 595.503-51 Letter agreement with the Canadian Army and the Department of Defence Production (Canada).

The procurement of research and development wherein Canada undertakes

the development of essential equipment to meet United States requirements by utilizing Canadian funds and Canadian contractors' facilities, will be accomplished in accordance with the provisions contained in the following letter agreement between the Canadian Army and the Department of Defence Production (Canada), and the Department of the Army (United States):

Ottawa
July 26, 1960

DEAR SIR: Canada and the United States have long recognized that the growing integration of Canadian and United States defence measures must be matched by closer and more systematic co-operation in defence development and production. This co-operation is intended to permit and encourage the skills and resources of Canada and the United States to form an integrated defence development and production base.

Nothing in this "Memorandum of Understanding" is intended to replace the Army to Army procedures now in effect to implement the Basic Standardization Agreement among the Armies of the United States, United Kingdom and Canada. (BSA)

Consistent with this philosophy and the aims of the BSA, our two governments have now established the Canada-United States Defence Production Sharing Programme, with the following objectives:

(a) The immediate objective is to increase the participation of Canadian industry in the production and support of North American defence weapons and equipment.

(b) The continuing objective is to co-ordinate the defence requirements, development, production and procurement of the two countries in order to achieve the best use of their production resources for their common defence in line with the concept of interdependence and the integration of military arrangements.

In implementing this production sharing effort, the U.S. Army recognizes the desirability of utilizing the capabilities of the Canadian defence industry, along with those of the U.S. defence industry, for the support of the U.S. Army. To this end, the U.S. Government has created broad opportunities for Canadian industry to compete for U.S. defence production contracts on the recognized bases of price, quality and delivery.

Notwithstanding the highly desirable start which our two countries have made in Production Sharing, it is recognized that development sharing is a highly significant aspect of production sharing and becomes an essential condition precedent to important production work.

The Canadian Government receives comprehensive information on the United States Army's Research and Development Programme through the implementation of the Basic Standardization Agreement among the Armies of the United States, the United Kingdom and Canada. Such information permits Canada to keep abreast of your future requirements, and thus, in broad terms, plan its participation in the Development Sharing Programme, three aspects of which are referred to hereunder.

(a) There is the aspect of competition where Canadian industry competes for U.S. initiated development requirements which are funded by the U.S. Army. In this regard, the Canadian Department of Defence Production undertakes to ensure that Canadian industry complies with U.S. Army Procurement Procedures and the U.S. Army proposes to invite qualified Canadian industry to submit proposals which will be evaluated on parity with offers received from the U.S. defence industry.

(b) There is the aspect of the requirement which has its origin in the U.S. which, for reasons of funding or policy, the U.S. Army is not currently undertaking but which re-

mains important to the defence of the U.S. In this regard, Canada proposes to undertake the development of essential equipment to meet the U.S. requirement by utilizing Canadian funds and Canadian contractors' facilities. It is considered that the objectives of this aspect could best be met by selection from, but not confined to, proposals or tasks within the fields in which Canadian industry has a special competence. To facilitate this aspect of development sharing, Canada proposes the implementation of procedures as outlined in the attached Appendix.

(c) There is the aspect which reflects the situation where the concept of a development task, the end product of which will be of use in the defence of the U.S., has its origin in Canada. Such development tasks, may wherever it is practical to do so, be submitted to the U.S. Army for appropriate consideration. In addition, under exceptional circumstances which preclude the use of existing procedures, CDDP will undertake to effect a mutual arrangement with CRD on a case by case basis.

Upon mutual acceptance of the philosophy outlined herein, it is understood that the principles of this letter and the principles contained in the attached Appendix will remain in force until terminated or modified by mutual consent. However, the understanding set forth in both documents may be terminated by either party on the 31st day of December or the 30th day of June in any year; provided that six (6) months notice of termination has been given in writing.

If the views set forth herein, together with the understanding covered by the attached Appendix, correctly set forth principles and procedures which you consider suitable for effectuating our development sharing proposal, please indicate your acceptance by signing below.

Yours faithfully,

D. A. GOLDEN,
Deputy Minister, Department of
Defence Production (Canada).
S. F. CLARK,
Lieutenant General, Chief of the
General Staff, Canadian Army.

Accepted by the United States Army—
September 14, 1960:

R. S. MORSE,
Director of Research and Develop-
ment, Department of the Army.
COURTNEY JOHNSON,
Assistant Secretary of the Army (Log).

APPENDIX

PRINCIPLES AND PROCEDURES FOR IMPLEMENTING "ASPECT (b)" OF THE LETTER OF AGREEMENT

1. *Source of potential projects or tasks.* The Chief of Research and Development (CRD), U.S. Army, makes the initial determination of potential projects or tasks which are deemed suitable for development by the Canadian Department of Defence Production (CDDP). These projects are chosen within the guidance of the U.S. Army Qualitative Material Development Objectives (QMDO) and the Qualitative Materiel Requirements (QMR). CDDP may, on its own initiative, propose any potential development project. Proposed projects will be of such a degree of importance to the U.S. Army development objectives that the U.S. Army would ordinarily develop the project for relative demands of funding or the relative priority of other urgently needed items. The CRD applies in this process additional criteria, such as importance of the project, separability of the development item and possible high density need of the end item. The following information is included for each item selected by the U.S.: the title of the project, the estimated amount of essential funding necessary to complete the development and for the subsequent testing, the time frame

within which the item must be available, the security classification and the responsible Technical Service. CDDP in making a selection of projects or tasks in which it is interested, contacts the responsible Technical Service through the Development Sharing Co-Ordinator appointed within each Technical Service by the Chief of that Service. The responsible Technical Service, through the Development Sharing Co-Ordinator or otherwise, provides such assistance to CDDP as may be necessary to enable it to make a selection of the U.S. projects in which it is interested. When CDDP has made a decision as to which projects it desires to undertake, it submits to CRD a statement of intention.

2. *Assignment to U.S. Technical Service.* On receipt of the statement of intention, the CRD makes formal assignment of the project to the Chief of the responsible Technical Service.

3. *Assignment of U.S. Project Officer.* The Chief of the Technical Service (CTS) to which the project has been formally assigned does, immediately after such assignment, appoint, from among technically qualified personnel in his Service, a Project Officer, and will notify the Washington CDDP of such appointment. Such Officer, or his successor, is and remains the responsible liaison and supervisory official for the project until the project is completed or terminated.

4. *Canadian technical liaison.* Where the interests of the Canadian Government are best served by the assignment of a Canadian officer to provide Canadian liaison with all technical aspects of the project, including but not necessarily limited to, the collection and review of technical information, test and evaluation reports and other development data emanating from the project, the Canadian Government will, at its own discretion, appoint an officer and CDDP will notify CTS.

5. *Functions of the U.S. Project Officer.* The duties of the Project Officer will be, in substance, the same as the duties which he would have if he were a Project Officer under a U.S. Government contract. He operates at all times for, and under the supervision of, the Chief of the U.S. Army Technical Service by whom he is appointed. He constitutes the sole official liaison channel for the project between the responsible U.S. Technical Service and the Canadian Government authorities, as well as between the U.S. Technical Service and the Canadian contractors. He is informed by CDDP of the identity of any contractor which it considers qualified, and which it desires to consider for the work, in advance of any contract award. He promptly renders his opinion to CDDP as to the technical competency of the contractor to be selected and the adequacy of his facility for the required purposes. CDDP gives due consideration to the opinion furnished by the Project Officer but it has the sole authority to make the actual selection. He is responsible for reviewing the proposal to insure that it is responsive to the requirements of the approved military characteristics, and for the technical supervision of the entire project. CDDP also furnishes to the Project Officer, for his concurrence, a draft of the scope of the work which it intends to require of the selected contractor. The Project Officer is responsible for expressing the U.S. Technical Service opinion to CDDP as to the coverage in the proposed contract, including the principles and procedures agreed to by CDDP and the U.S. Army. He is authorized to, and ordinarily will, contact Canadian contractors directly for the purpose of keeping himself informed of the progress of the project but deals only with the CDDP Contracting Officer when he desires to accomplish change orders; request formal reports, etc.

6. *U.S. Army Regulation 705-5.* CDDP recognizes that the responsibilities and procedures governing the conduct of research

and development within the U.S. Department of the Army, as set forth in U.S. Army Regulation 705-5, are applicable to projects undertaken pursuant to this agreement.

7. *Funding.* CDDP funds development in Canada of agreed upon projects under this programme, including funding of engineer and service tests items, and repair parts support therefor. CDDP funds all transportation costs in Canada, for test or otherwise, and first destination costs to test site in the United States. CDDP also funds transportation costs of U.S. Government Furnished Equipment from the U.S. site to the Canadian destination and return to the original or substitute site. The U.S. Army does not engage in funding in the U.S. to meet the same requirement unless required to do so in the U.S. National interest, such as may be motivated by the determination that the Canadian contractor is not proceeding with the development project within the established time frame, that the project is not proceeding satisfactorily from a technical viewpoint, or that CDDP is not continuing funding of the programme at an essential level. In any event, CTS will inform Washington CDDP promptly of its intention to engage in funding in the U.S. to meet the same requirement. The U.S. Army funds all engineering and service tests which are conducted by the U.S. Army.

8. *Engineer and service test models.* CDDP provides models including repair parts, technical instructional material and maintenance package of the development project in sufficient number to accomplish engineering and service tests in either the U.S. or Canada. In the event that there is disagreement on the number of tests models required for the U.S. Army use, this will be resolved between the Chief of Research and Development and the Deputy Minister of the Department of Defence Production.

9. *Specifications, drawings and technical data.* CDDP will, if consistent with the conditions outlined in paragraph 10 herein, provide specifications, engineering drawings and technical data such as are necessary to, and/or emerge from, development and production of the service test model in quantities as may be agreed to in paragraph 8 above.

10. *Patent rights and rights in technical information.* (a) The CDDP grants to the U.S. Government an irrevocable, non-exclusive, non-transferable, and royalty-free license to practice and cause to be practiced, by or for the U.S. Government, throughout the world, in the manufacture, use and disposition of any article or material, and in the use of any method, each invention (whether or not patentable) conceived or further developed in the performance of the experimental, developmental or research work called for in each contract effected pursuant to this undertaking.

(b) With respect to inventions referred to above, the CDDP:

(i) Submits to the U.S. Project Officer, upon request, a descriptive written disclosure of any invention,

(ii) Upon the filing in Canada or the United States of each patent application pertaining to such inventions, informs the U.S. Project Officer of the country in which the application has been filed, of the serial number of the application and the filing date, and by whom filed,

(iii) Executes, upon the request of the U.S. Project Officer, instruments confirmatory of the license rights granted above, and

(iv) If neither the contractor nor the Canadian Government intends to file or cause to be filed a Canadian or U.S. patent application covering any such invention nor intends to continue or cause to be continued the prosecution of any such application, notifies the U.S. Project Officer promptly so that the U.S. Government may file or cause to be filed such application not otherwise

filed or caused to be filed, or the U.S. Government may continue the prosecution of such application whose prosecution is not otherwise to be continued; and CDDP agrees to grant to the U.S. Government, upon request, the sole and exclusive title to any such application so filed or caused to be filed or whose prosecution is so continued or caused to be continued by the U.S. Government, provided, however, that the Canadian Government may reserve to itself and to its contractors a non-exclusive and royalty-free license under any such application.

(c) CDDP agrees to grant to the U.S. Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive and irrevocable license throughout the world for U.S. Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all or any part of the technical information (including but not limited to reports, drawings and blueprints) delivered to the U.S. Government under the contract; provided, with respect to any part of such technical information now or hereafter covered by copyright and not originated in the performance of the contract, such license shall be only to the extent that the Canadian Government or the contractor, its employees, or any individual or concern specifically employed or assigned by the contractor to originate and prepare technical information under the contract, now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant. CDDP further agrees that, subject to the proviso just stated, the U.S. Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others do so, all technical information delivered under the contract.

(d) The CDDP makes such arrangements with its contractors as are necessary in order that the rights specified in subparagraphs a, b, and c above, are available to the U.S. Government.

11. *Contract implementation.* CTS implements the principles and procedures of this Development Sharing Understanding between the U.S. Army and CDDP by placing a contract, containing appropriate contract clauses with the CCC. The Canadian Government in turn places a contract, including U.S. contract clauses and others as may be appropriate, with the Canadian contractor or by such other means as are reasonably required to effectuate the programme.

12. *Follow-on procurement.* It is recognized that U.S. procurement of follow-on equipment, as developed under Canadian funded projects as described herein will be procured under U.S. Armed Services Procurement Regulations and in consequence the U.S. Army does not guarantee placing the first or other production runs of successful developments on the Canadian facility. However, CDDP accepts the statement in this section as representing the guiding principle to be employed by the U.S. Army in negotiating initial production contracts:

(a) The production of important new technical or specialized military supplies, tanks, radar, guided missiles, aircraft, rockets, and equipment of similar complexity, involves development evaluation, and initial production phases. The U.S. avoids, wherever practicable, awarding initial production contracts for supplies until completion of the development and evaluation phases. At the time of placing the initial production contract, it is essential that the U.S. be completely free to select the contractor as the best interests of the U.S. may dictate. In the placement and administration of research or development contracts, no commitments are made to contractors with respect to obtaining subsequent production contracts.

(b) In connection with the foregoing it may be in the best interest of the U.S. that the initial production contract for technical and specialized supplies be placed with the contractor responsible for the development of the design for such supplies. Accordingly, in placing such initial production contracts, an analysis is made of the following considerations:

(1) Extensive preliminary research and development work which can be put to most effective use in production by the research and development contractor for any of the following reasons:

(a) A need for adaptation of the newly developed equipment for quantity manufacture, and for introduction of advanced production methods, together with a significant interrelationship between the design engineering and production engineering, which may yield best results from the standpoints of performance, reliability, and producibility; or

(b) The substantial time and money which would be required for another contractor to indoctrinate and train his engineering staff in the specialized techniques or novel design concepts which are employed, thereby adding to production lead time.

(2) Continuing improvement of the equipment concurrent with production, which is most effectively accomplished by a single contractor because of the advantages of unified responsibility and close co-ordination of improved design features with production processes and equipment.

(c) Where it is in the U.S. interest to award the initial production contract to the development contractor, price alone does not govern an award elsewhere unless a fair and reasonable price cannot be negotiated with the development contractor or unless the price advantage in award to another supplier is so substantial as to outweigh the other factors involved. This paragraph is not construed either to require or to prevent competitive pricing. Initial production contracts are not awarded to development contractors who do not have fully adequate and available financial, technical and production resources.

(d) In recognition of the mutual interests inherent in such projects, however, it is agreed that follow-on procurement will be effected so as to ensure Canadian suppliers an opportunity to bid on such procurements. Accordingly, such procurements will not be subject to the Small Business or Labour Surplus Area Set-Asides procedure.

Effective date. This amendment shall become effective upon its publication in the FEDERAL REGISTER.

[C 27, APP, Nov. 4, 1960] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-10924; Filed, Nov. 23, 1960; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,
Department of the Army

PART 202—ANCHORAGE REGULATIONS

Narragansett Bay, Rhode Island

Pursuant to the provisions of section 7 of the River and Harbor Act of March

4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.145 establishing and governing the use of anchorages in Narragansett Bay, Rhode Island, is hereby amended with respect to paragraph (a) by adding subparagraph (2-a) prescribing a Naval Explosives and Ammunition Handling Anchorage in East Passage, as follows:

§ 202.145 Narragansett Bay, R.I.

(a) *East passage.* * * *

(2-a) *Anchorage B-1, Naval explosives and ammunition handling anchorage.* The waters of Narragansett Bay northeasterly of Gould Island within a circle having a radius of 500 yards with its center at latitude 41°33'18", longitude 71°20'03".

(i) This area will be used for anchoring naval vessels carrying or transferring ammunition or explosives under standard military restrictions as established by the Safety Manual, Armed Services Explosive Board. Explosives or dangerous materials include inflammable liquid or inflammable solids, oxidizing materials, corrosive liquids, compressed gases and poisonous substances.

(ii) No vessel shall anchor within 500 yards of the explosive anchorage area when occupied by vessels carrying explosives.

(iii) No vessel shall be so anchored in the anchorage that it will at any time extend beyond the limits of the area.

(iv) Naval vessels anchoring in the area will display the proper signals, and will be under the supervision of the Commander, U.S. Naval Base, Newport, Rhode Island.

Effective date. This amendment shall become effective upon its publication in the FEDERAL REGISTER.

[Regs., Nov. 4, 1960, 285/91 (Narragansett Bay, R.I.)-ENGW-O] (Sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-10925; Filed, Nov. 23, 1960; 8:47 a.m.]

Title 35—PANAMA CANAL

Chapter 1—Canal Zone Regulations

PART 10—EXCLUSION AND DEPORTATION OF PERSONS

General Permit for Passage Through Canal Zone

Pursuant to the authority vested in the Governor of the Canal Zone by 35 CFR 10.32, Part 10 of Chapter I of Title 35 of the Code of Federal Regulations is hereby amended by adding thereto a new § 10.35a and reading as follows:

§ 10.35a General permit for passage of deported persons between the Republic of Panama and the Panama Freight House in Ancon, Pier 18, Balboa, and the Cristobal Freight House.

A resident of the Republic of Panama who has been deported from the Canal Zone may, for the purpose of conducting business at Panama Customs sites estab-

lished in the Canal Zone, pass through the Canal Zone by motor vehicle but only while en route to or from said sites over the following highways:

(a) Between the city of Colon and the Cristobal Freight House: Terminal Street from the Canal Zone boundary at Bolivar and 13th Streets to Roosevelt Avenue, Roosevelt Avenue from Terminal Street to Freight House Building No. 1012.

(b) Between the city of Panama and Pier 18, Balboa: Frangipani Street from the Canal Zone boundary to Gaillard Highway, Gaillard Highway from the Canal Zone boundary to Corozo Street, Corozo Street, Roosevelt Avenue, Diablo Road from Roosevelt Avenue to Pier Street, Pier Street from Diablo Road to Pier 18 including all public ways and roads open to vehicular traffic adjacent or on Pier 18; or Shaler Road from the Canal Zone boundary to Roosevelt Avenue to Diablo Road to Pier Street to Pier 18; or Balboa Road from the Canal Zone boundary at the Chorillo section of the city of Panama to La Boca Road to Roosevelt Avenue to Diablo Road to Pier Street to Pier 18.

(c) Between the city of Panama and the Panama Freight House in Ancon: Frangipani Street from the Canal Zone boundary to Gaillard Highway, Gaillard Highway from the Canal Zone boundary to Corral Road, Corral Road from Gaillard Highway to the Panama Freight House including all public ways or roads open to vehicular traffic located within the fenced area of the Panama Freight House.

Issued at Balboa Heights, Canal Zone, November 10, 1960.

[SEAL]

W. A. CARTER,
Governor.

[F.R. Doc. 60-10911; Filed, Nov. 23, 1960; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 1—Federal Procurement Regulations

LIVESTOCK PRODUCTS

Chapter 1 of Title 41 is amended as set forth below:

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The part table of contents is amended by adding reference to Part 1-4, as follows:

1-4 Special types and methods of procurement.

2. New Part 1-4 is added to read as follows:

Subpart 1-4.1—[Reserved]

Subpart 1-4.2—[Reserved]

Subpart 1-4.3—[Reserved]

Subpart 1-4.4—[Reserved]

Subpart 1-4.5—[Reserved]

Subpart 1-4.6—Livestock Products

Sec.

1-4.600 Scope.

1-4.601 General.

1-4.602 Definition of livestock products.

Sec.

1-4.603 Exception.

1-4.604 Procedures.

1-4.605 Statement of eligibility clause.

1-4.606 Humane method of livestock slaughter clause.

1-4.607 Reporting violations.

AUTHORITY: §§ 1-4.600 to 1-4.607 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c). Interpret or apply 72 Stat. 862, as amended; 7 U.S.C. 1901-1906.

Subpart 1-4.6—Livestock Products

§ 1-4.600 Scope.

This subpart sets forth the policies and procedures applicable to the procurement of livestock products.

§ 1-4.601 General.

Public Law 85-765, as amended, commonly known as the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1906), provides certain restrictions on the procurement of livestock products by Federal agencies and instrumentalities. The Act states the policy of the United States to be that the slaughtering of livestock, and the handling of livestock in connection with slaughter, shall be carried out only by humane methods. In essence, the Act prohibits the purchase by the Federal Government of livestock products produced or processed by any slaughterer or processor which in any of its plants (or in the plants of an affiliated slaughterer or processor) slaughters, or handles in connection with slaughter, livestock by any method other than humane. Further, the Act requires a supplier to make a statement concerning his eligibility under the Act to supply livestock products, the statement to be such that the maker will be subject to prosecution if the statement is false.

§ 1-4.602 Definition of livestock products.

"Livestock products" means any article of food, or any article intended for or capable of being used as food, for either humans or animals, which is derived or prepared, in whole or in part, from slaughtered cattle, calves, horses, mules, sheep, swine, or goats. Livestock products do not include (a) supplies, the animal product portion of which is less than 5 percent by weight of the net unit weight, and (b) poultry.

§ 1-4.603 Exception.

The requirements of this Subpart 1-4.6 do not apply to contracts for livestock products, executed and to be performed outside the United States, its possessions, or Puerto Rico.

§ 1-4.604 Procedures.

(a) Proposed suppliers of livestock products shall be informed of the requirements of the Humane Slaughter Act and shall be required to furnish a statement of eligibility in accordance with this § 1-4.604.

(b) Except as provided in § 1-4.604 (c) and (d) below, the Statement of Eligibility (Humane Slaughter Act), set forth in § 1-4.605 below, shall be included in all invitations for bids, requests for proposals, and other contractual documents for livestock products,

and shall be required to be duly signed by the supplier (contractor).

(c) Where small purchases are involved (see Subpart 1-3.6), it will be sufficient if, as a part of the purchase documentation, the supplier (contractor) furnishes, over his signature, only paragraph (a) of said Statement of Eligibility (Humane Slaughter Act).

(d) When frequent purchases are made from the same supplier (contractor) or the contracting officer deems it otherwise appropriate, the Statement of Eligibility (Humane Slaughter Act) may be obtained from the supplier (contractor) at reasonable intervals, but not less often than annually. When such Statement has been obtained, the clause set forth in § 1-4.606 below may be inserted, in lieu of said Statement of Eligibility (Humane Slaughter Act), in all contracts or purchase orders issued to the supplier.

§ 1-4.605 Statement of eligibility clause.

The following statement of eligibility clause shall be used in accordance with § 1-4.604 above:

STATEMENT OF ELIGIBILITY (HUMANE SLAUGHTER ACT)

(a) The supplier (contractor) agrees that livestock products sold to the Government, except products produced or processed from livestock slaughtered outside the United States, its possessions, and Puerto Rico, conform to the requirements of the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1906).

(b) "Livestock products" means any article of food, or any article intended for or capable of being used as food, for either humans or animals, which is derived or prepared, in whole or in part, from slaughtered livestock, namely, cattle, calves, horses, mules, sheep, swine, or goats. Livestock products do not include (1) supplies, the animal product portion of which is less than 5 percent by weight of the net unit weight, and (2) poultry.

(c) A slaughterer or processor shall be deemed to be affiliated with another slaughterer or processor if it controls, or is controlled by, or is under common control with, such other slaughterer or processor.

(d) Livestock products which conform to the requirements of the Humane Slaughter Act of 1958 are products which have been produced and processed either:

(1) By those slaughterers and processors which, in all of their plants and in all of the plants of slaughterers and processors with which they are affiliated, slaughter, and handle in connection with slaughter, livestock only by methods designated as humane by the Secretary of Agriculture; or

(2) From livestock slaughtered in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument, which ritual requirements have been designated as humane methods of slaughter by the subject Act.

(e) This statement is made with full knowledge that it will be relied upon by the Government in entering into contracts with the supplier (contractor) and in payment of claims thereunder.

WARNING

Making any false statement herein or submission of any false claim hereunder will subject supplier (contractor) to punishment

as provided in Title 18, United States Code, Crimes and Criminal Procedure.

Date -----

(Name of Supplier-
Contractor)

By -----
(Title)

(Address)

§ 1-4.606 Humane method of livestock slaughter clause.

The following clause shall be used in accordance with § 1-4.604(d) above:

HUMANE METHOD OF LIVESTOCK SLAUGHTER

(a) The supplier (contractor) agrees that livestock products sold to the Government, except products produced or processed from livestock slaughtered outside the United States, its possessions, and Puerto Rico, conform to the requirements of the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1906).

(b) The supplier (contractor) shall have furnished the Government a Statement of Eligibility (Humane Slaughter Act) before award of this contract or issuance of this purchase order, and such Statement is hereby incorporated by reference.

§ 1-4.607 Reporting violations.

Reports of possible violation of a statement of eligibility given in accordance with § 1-4.604 shall be made to the Department of Justice by each agency in accordance with agency procedures.

PART 1-7—CONTRACT CLAUSES

Subpart 1-7.1—Fixed-Price Supply Contracts

1. The table of contents of Part 1-7 is amended by adding a reference to § 1-7.101-24, as follows:

1-7.101-24 Humane slaughter of livestock.

2. Part 1-7 is amended by adding new § 1-7.101-24, to read as follows:

§ 1-7.101-24 Humane slaughter of livestock.

Insert the clause set forth in section 1-4.605 or in section 1-4.606 under the procedures provided in section 1-4.604.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c). Interpret or apply 72 Stat. 862, as amended; 7 U.S.C. 1901-1906)

Effective date. These regulations are effective February 1, 1961 but may be observed earlier.

Dated: November 17, 1960.

FRANKLIN FLOETE,

Administrator of General Services.

[F.R. Doc. 60-10907; Filed, Nov. 23, 1960; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 60-1381]

PART 1—PRACTICE AND PROCEDURE Applications for Broadcast Facilities

At a session of the Federal Communications Commission held at its offices

in Washington, D.C., on the 16th day of November 1960;

The Commission having under consideration Public Law 86-752, 86th Congress, 2d Session, which was enacted into law on September 13, 1960, and the necessity for promulgating rules to implement various amendments of the Communications Act of 1934 contained in that law;

It appearing, that the amendments to sections 309 (pertaining to pre-grant procedures) and 311 (pertaining to the giving of local notice by applicants for broadcast facilities) will become effective on December 12, 1960; and

It further appearing, that the law permits the Commission to make the new provisions of section 309 of the Act applicable, under certain conditions, to applications filed before December 12, 1960; and

It further appearing, that it is necessary that the rules implementing section 309 and 311(a) of the Act be effective on December 12, 1960, and that applicants and other interested persons should have adequate advance notice of the rules they will be required to follow as well as of the Commission's decision concerning what applications will be subject to those rules; and

It further appearing, that these amendments to the rules are procedural in nature, and furthermore that following the notice and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest in that due and timely execution of the Commission's functions would be impeded, and that the rules should be promulgated at this time and made effective on December 12, 1960; and

It further appearing, that, in view of the importance of these rules and the impracticability of affording an opportunity to comment on the rules before their adoption, all interested persons are advised that they may file timely petitions to reconsider the rules now being adopted or petitions requesting specific amendments in the rules; and

It further appearing, that authority for the adoption of these rules is contained in sections 4(i), 303(r), 309, and 311 of the Communications Act of 1934, as amended;

It is ordered, That, effective December 12, 1960, Part 1 of the Commission's rules and regulations is amended as set forth below:

Released: November 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

1. Existing paragraphs (c), (d), (e), (f) and (g) of § 1.191 are redesignated as paragraphs (d), (e), (f), (g) and (h), and new paragraph (c) is added as follows:

§ 1.191 Petitions for reconsideration and rehearing.

* * * * *

(c) Any person desiring to file a petition for reconsideration of a grant made

without hearing in a situation where a petition to deny could have been filed by a party in interest prior to the grant shall show good cause why the matters raised in the petition could not have been raised prior to the grant.

2. A new paragraph (i) is added to § 1.193, as follows:

§ 1.193 Protests of grants without hearing.

(i) The provisions of this section shall not be applicable to any application: (1) Filed on or after December 12, 1960; (2) filed before December 12, 1960, but substantially amended (as defined in the applicable provisions of this chapter) on or after that date; and (3) filed before December 12, 1960, and not thereafter substantially amended, but with respect to which the rules in this chapter provide an opportunity for petitions to deny to be filed under section 309 of the Communications Act, as amended.

3. Paragraph (a) of § 1.311 is amended to read as follows:

§ 1.311 Amendments to applications.

(a) Subject to the provisions of § 1.359, any application may be amended as a matter of right prior to the adoption date of the order designating such application for hearing merely by filing the appropriate number of copies of the amendments in question duly executed in accordance with § 1.303. However, see § 1.354(h) for the effect of certain amendments to standard broadcast applications.

4. Paragraphs (a) and (b) of § 1.354 of the rules are amended to read as follows:

§ 1.354 Processing of standard broadcast applications.

(a) Applications for standard broadcast facilities are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, i.e., any change in frequency, power, hours of operation, or station location: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section or so as to result in a transfer of control or assignment which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.329), § 1.359 will apply to such amended application.

5. Paragraphs (a) and (b) of § 1.355 of the rules are amended to read as follows, and paragraph (f) is deleted:

§ 1.355 Processing of television broadcast applications.

(a) Applications for television broadcast stations are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, i.e., (i) any change in frequency or station location, or (ii) any change in power, antenna height above average terrain and/or antenna location, if the change or combinations of changes results in a change of 50 percent or more in the area within the Grade B contour of the station: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses to cover construction permits and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section or so as to result in an assignment or transfer of control which, in the case of an authorized station would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.329), § 1.359 will apply to such amended application.

(f) [Deleted]

6. In § 1.356, paragraphs (a) and (b) are amended to read as follows; paragraphs (c), (d), and (e) are deleted; and paragraph (f) is redesignated as paragraph (c):

§ 1.356 Processing of FM and noncommercial educational FM broadcast applications.

(a) Applications for FM broadcast stations are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, i.e., (i) any change in frequency, station location or class of station, and (ii) any change in power, antenna height above average terrain and/or antenna location, if the change or combination of changes results in a change of 50 percent or more in the area within the station's 1 mv/m contour: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification of facilities advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.329), § 1.359 will apply to such amended application.

§ 1.357 [Redesignation]

7. Section 1.357 is redesignated as § 1.360.

8. New §§ 1.357, 1.358 and 1.359 are added as follows:

§ 1.357 Processing of international broadcast applications.

(a) Applications for international broadcast facilities are divided into two groups.

(1) In the first group are applications for new stations for new or additional target zones, or for major changes in the facilities of authorized stations, i.e., a substantial change (other than local) in transmitter location or a significant change in the delivered median field intensity at the target zone: *Provided, however*, That the Commission may, within 15 days after the tender for filing of any other application for modification, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of § 1.359.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a) (1) of this section, or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 1.329), § 1.359 will apply to such amended application.

(c) Applications for international broadcast stations will be processed as nearly as possible in the order in which they are filed.

§ 1.358 Amendments to applications for renewal, assignment and/or transfer of control.

(a) Any amendments to an application for renewal of any instrument of authorization shall be considered to be a minor amendment, except that any amendment which seeks to change the proposals contained therein relating to future programming of a station shall be considered to be a major amendment: *Provided, however*, That the Commission may, within 15 days after tender for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 1.359.

(b) Any amendment to an application for assignment of construction permit or license, or consent to the transfer of control of a corporation holding such a construction permit or license shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control, or any amendment which would require the filing of FCC Forms 314 or 315 (see § 1.329) if the changes sought were made in an original application for assignment or transfer of control shall be considered to be a major amendment: *Provided, however*, That the Commission

may, within 15 days after the tender for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 1.359.

§ 1.359 Pre-grant procedures.

(a) All applications for instruments of authorization in the broadcast service and major amendments thereto, as indicated in §§ 1.354, 1.355, 1.356, 1.357 and 1.358 are subject to the provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in §§ 1.354, 1.355, 1.356 and 1.357.

(2) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act of 1934, as amended, or to a voluntary assignment or transfer thereunder which does not result in a change of control and which may be applied for on FCC Form 316 pursuant to the provisions of § 1.329(b).

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such licensee.

(4) Extension of time to complete construction of authorized facilities.

(5) An authorization of facilities for remote pickup or studio links for use in the operation of a broadcast station.

(6) Authorization pursuant to section 325(b) of the Communications Act where the programs to be transmitted are special events not of a continuing nature.

(7) An authorization under any of the proviso clauses of section 308(a) of the Communications Act.

(b) No application subject to the provision of this section (whether as originally filed or as amended) will be acted upon by the Commission less than 30 days following issuance of public notice of the acceptance of or filing of such application or amendment: *Provided, however*, That the Commission, notwithstanding the requirements of this subsection, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring emergency operations in the public interest and that delay in the institution of such emergency operations would seriously prejudice the public interest, grant a temporary authorization, accompanied by a statement of its reasons therefor, to permit such emergency operations for a period not exceeding ninety days, and upon making like findings may extend such temporary authorization for one additional period not to exceed ninety days.

(c) An applicant filing any application or an amendment thereto on or after December 12, 1960, which is subject to the provisions of this section (except for applications for stations in the international broadcast service) shall cause to be published a notice of such filing at least twice a week for the two weeks immediately following the tendering for filing of such application or amendment, or at least twice a week for the two weeks

immediately following notification by the Commission pursuant to §§ 1.354, 1.355, 1.356, 1.357, or 1.358, in a daily newspaper of general circulation published in the community in which the station is located or is proposed to be located or, if there is no such daily newspaper published in the community, then in the daily newspaper having the greatest general circulation in the community: *Provided, however*, That in the case of an application for a permit pursuant to section 325(b) of the Communications Act, the notice shall be published in a newspaper of general circulation in the principal area to be served in the United States by the foreign radio broadcast station. If the application seeks modification, assignment, transfer or renewal of an operating broadcast station, the applicant shall also cause the notice to be broadcast over that station twice a week between the hours of 10:00 a.m. and 10:00 p.m. for the two weeks immediately following the tendering for filing of such application, or for the two weeks immediately following notification by the Commission pursuant to §§ 1.354, 1.355, 1.356, 1.357 or 1.358. The notice shall state:

(1) The name of the applicant, if the applicant is an individual; the names of all partners, if the applicant is a partnership; or the names of all officers and directors and of those persons holding 10 percent or more of the capital stock or other ownership interest if the applicant is a corporation or an unincorporated association (in the case of applications for assignment or transfer of control, information should be included for all parties to the application).

(2) The purpose for which the application was filed (i.e., construction permit, modification, transfer or assignment of control, renewal, etc.).

(3) The date when the application or amendment was filed with the Commission.

(4) The call letters, if any, of the station, and the frequency or channel on which the station is operating or proposes to operate.

(5) In the case of an application for construction permit for a new station, the facilities sought, including type and class of station, power, location of studios, transmitter site and antenna height.

(6) In the case of an application for modification of a construction permit or license, the exact nature of the modification sought.

(7) In the case of an amendment to an application, the exact nature of the amendment.

(8) In the case of applications for a permit pursuant to section 325(b) of the Communications Act, the call letters and location of the foreign radio broadcast station, the frequency or channel on which it operates and a description of the programs to be transmitted over the station.

(d) Within 5 days of the last day of publication or broadcast of the notice required by paragraph (c) of this section, the applicant shall file a statement in triplicate with the Commission, setting forth the dates on which the notice

was published, the newspaper in which the notice was published, the text of the notice, and, where applicable, the dates and times that the notice was broadcast.

(e) Any party in interest may file with the Commission a petition to deny any such application (whether as originally filed or as amended) at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing: *Provided, however*, That where the Commission issues a public notice pursuant to the provisions of § 1.354(c) listing standard broadcast applications as available and ready for processing, no petitions to deny any such application will be accepted after the "cut-off" date specified in the Public Notice. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(f) The applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition (see § 1.13) in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof.

(g) (1) The provisions of sections 309 and 311(a) of the Communications Act, as amended by Public Law 86-752, shall not be applicable to applications for assignments of licenses or construction permits or for transfers of control of corporate licensees or permittees which are pending before the Commission and which have not been designated for hearing prior to December 12, 1960.

(2) Any other applications in the categories subject to this section which are pending before the Commission and which have not been designated for hearing before December 12, 1960, will not be acted on by the Commission until at least 30 days after that date. Any party in interest may file a petition to deny such applications pursuant to the provisions of this section. The provisions of section 309 of the Communications Act, as in effect prior to December 12, 1960, shall not be applicable to such applications. However, such applications shall not be subject to the provisions of paragraph (c) of this section.

9. Sections 1.361 and 1.362 are amended to read as follows:

§ 1.361 Grants without hearing of authorizations other than licenses pursuant to construction permit; procedure for filing informal objections.

(a) Before Commission action on any application for an instrument of authorization, other than a license pursuant to a construction permit, any person may file informal objections to the grant. Such objections shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.13 shall not be applicable to any objections duly filed under this section.

(b) If the Commission finds, in the case of any application for an instrument of authorization other than a license pursuant to a construction permit, on the basis of the application, the pleadings filed, or other matters which it may officially notice that the application meets the following requirements and presents no substantial and material question of fact, it will make the grant if:

(1) There is not pending a mutually exclusive application filed in accordance with paragraph (c) of this section;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) The applicant is not in violation of provisions of law or this chapter or established policies of the Commission; and

(4) A grant of the application would otherwise serve the public interest, convenience, and necessity.

(c) In making its determinations pursuant to the provisions of paragraph (b) of this section, the Commission will not consider any other application, or any other application if amended so as to require a new file number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete and tendered for filing by whichever date is earlier: (1) The close of business on the day preceding the day on which the Commission takes action with respect to the application under consideration; or (2) the close of business on the day preceding the day designated by public notice in the FEDERAL REGISTER as the day the application under consideration is available and ready for processing.

NOTE: Paragraph (c) (2) of this section applies only to standard broadcast applications for new stations or for major changes in the facilities of authorized stations. See also §§ 1.106(b) (1) and 1.354 (c) and (h).

(d) If a petition to deny the application has been filed in accordance with § 1.359 and the Commission makes the grant in accordance with paragraph (b) of this section, the Commission will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

§ 1.362 Designation for hearing; local notice; conditional grant.

(a) If the Commission is unable, in the case of any application for an instrument of authorization, to make the findings specified in § 1.361(b), it will formally designate the application for hearing on the grounds or reasons then obtaining and will forthwith notify the applicant and all known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally.

(b) When an application subject to the provisions of § 1.359 is designated for hearing, the applicant shall cause to be published a notice of such designation at least twice a week for the two weeks immediately following release of the Commission's order specifying the time and place of the commencement of the hearing in a daily newspaper of general circulation published in the community in which the station is located or is proposed to be located, or, if there is no such daily newspaper published in the community, then in the daily newspaper having the greatest general circulation in the community: *Provided, however,* That where an application for a permit pursuant to section 325(b) of the Communications Act is designated for hearing, the notice shall be published in a newspaper of general circulation in the largest city in the principal area to be served in the United States by the foreign radio broadcast station. If the application seeks modification, assignment, transfer or renewal of an operating broadcast station, the applicant shall also cause the notice to be broadcast over that station twice a week between the hours of 10:00 a.m. and 10:00 p.m. for the two weeks immediately following release of the Commission's order specifying the time and place of the commencement of the hearing. The notice shall set forth:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the station or stations involved, and the frequencies or channels on which the station or stations are operating or proposed to operate.

(3) The time and the place of the hearing.

(4) The issues in the hearing as listed in the Commission's order of designation for hearing.

(c) Within 5 days of the last day of publication or broadcast of the notice required by paragraph (b), the applicant shall file a statement in triplicate with the Commission, setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and, where applicable, the date and time that the notice was broadcast.

(d) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the Commission may, if public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of broadcast service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of this chapter.

[F.R. Doc. 60-10964; Filed, Nov. 23, 1960; 8:53 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1939) Part 81]

ESTATE TAX

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T.P., Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the *FEDERAL REGISTER*. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the *FEDERAL REGISTER*. The proposed regulations are to be issued under the authority contained in section 3791 of the Internal Revenue Code of 1939 (53 Stat. 467; 26 U.S.C. 3791).

[SEAL]

DANA LATHAM,

Commissioner of Internal Revenue.

In order to conform 26 CFR (1939), Part 81 (Regulations 105), relating to the Estate Tax to sections 1 and 4 of the Act of February 20, 1956 (Public Law 414 (84th Congress) 70 Stat. 23), the Act of February 20, 1956 (Public Law 417 (84th Congress) 70 Stat. 26), the Act of August 1, 1956 (Public Law 901 (84th Congress) 70 Stat. 917), the Act of February 11, 1958 (Public Law 85-318, 72 Stat. 3), and sections 65, 66, 89 and 93 of the Technical Amendments Act of 1958 (72 Stat. 1606) such regulations are amended as follows:

§ 81.2 [Amendment]

PARAGRAPH 1. Section 81.2, as amended by Treasury Decision 6073, approved June 11, 1954, is further amended by adding after the sixth undesignated paragraph of paragraph (a) (26 CFR (1939) 81.2(a) (6)) the following new paragraph:

A credit for Federal estate taxes paid on certain transfers of property to the decedent is allowable against both the basic and additional estate taxes under section 814. See §§ 81.9a to 81.9f, inclusive.

PAR. 2. There is inserted immediately preceding § 81.8 the following:

PUBLIC LAW 414 (EIGHTY-FOURTH CONGRESS, SECOND SESSION), APPROVED FEBRUARY 20, 1956

SEC. 3. Section 2011 of the Internal Revenue Code of 1954 is amended by adding after subsection (d) a new subsection as follows:

"(e) *Limitation in cases involving deduction under section 2053(d).* In any case where a deduction is allowed under section 2053(d) for an estate, succession, legacy, or inheritance tax imposed upon a transfer for public, charitable, or religious uses described in section 2055 or 2106(a) (2), the allowance of the credit under this section shall be subject to the following conditions and limitations:

"(1) The taxes described in subsection (a) shall not include any estate, succession, legacy, or inheritance tax for which a deduction is allowed under section 2053(d).

"(2) The credit shall not exceed the lesser of—

"(A) the amount stated in subsection (b) on a taxable estate determined by allowing the deduction authorized by section 2053(d), or

"(B) that proportion of the amount stated in subsection (b) on a taxable estate determined without regard to the deduction authorized by section 2053(d) as (i) the amount of the taxes described in subsection (a), as limited by the provisions of paragraph (1) of this subsection, bears to (ii) the amount of the taxes described in subsection (a) before applying the limitation contained in paragraph (1) of this subsection.

"(3) If the amount determined under subparagraph (B) of paragraph (2) is less than the amount determined under subparagraph (A) of that paragraph, then for purposes of subsection (d) such lesser amount shall be the maximum credit provided by subsection (b)."

SEC. 4. The amendments to the Internal Revenue Code of 1954 made by sections 2 and 3 of this Act, and provisions having the same effect as this amendment, which shall be considered to be included in chapter 3 of the Internal Revenue Code of 1939, shall apply to the estates of all decedents dying after December 31, 1953.

PUBLIC LAW 417 (EIGHTY-FOURTH CONGRESS, SECOND SESSION), APPROVED FEBRUARY 20, 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart I of part II of subchapter A of chapter 3 of the Internal Revenue Code of 1939 (relating to computation of estate tax) is hereby amended by adding at the end thereof the following new section:

"SEC. 814. CREDIT FOR TAX ON CERTAIN PRIOR TRANSFERS.

"(a) *General rule.* If the executor so elects, the tax imposed by sections 810 and 935 in the case of a decedent (but only if the decedent was a citizen or resident of the United States at the time of his death) dying after December 31, 1951, shall be credited with all or a part of the amount of the Federal estate tax paid with respect to the transfer of property (including property passing as a result of the exercise or non-exercise of a power of appointment) to the decedent by or from a person (herein designated as a 'transferor') who was the spouse of the decedent at the time of such person's

death and who died within two years before the decedent's death. The credit shall be the amount determined under subsections (b) and (c).

"(b) *Computation of credit.* Subject to the limitation prescribed in subsection (c), the credit provided by this section shall be an amount which bears the same ratio to the estate tax paid (adjusted as indicated hereinafter) with respect to the estate of the transferor as the value of the property transferred bears to the net estate of the transferor (determined for purposes of the tax imposed by section 935) decreased by any death taxes paid with respect to such estate and increased by the exemption provided for by section 935(c) in determining the net estate of the transferor for purposes of the estate tax. For purposes of the preceding sentence, the estate tax paid shall be the Federal estate tax paid increased by any credits allowed against such estate tax under sections 813(a) and 936(b) on account of gift tax, and for any credits allowed against such estate tax under this section on account of prior transfers where the transferor acquired property from a person who died within two years before the death of the decedent.

"(c) *Limitation on credit.*

"(1) *In general.* The credit provided in this section shall not exceed the amount by which—

"(A) the estate tax imposed by sections 810 and 935 (after deducting the credits for State death taxes, gift tax, and foreign death taxes provided for in sections 810, 813, and 936) computed without regard to this section, exceeds

"(B) such tax computed by excluding from the decedent's gross estate the value of such property transferred and, if applicable, by making the adjustment herein-after indicated.

If any deduction is otherwise allowable under section 812(d) (relating to charitable deduction) then, for the purpose of the computation indicated in subparagraph (B), the amount of such deduction shall be reduced by that part of such deduction which the value of such property transferred bears to the decedent's entire gross estate reduced by the deductions allowed under section 812(b) (relating to deduction for expenses, losses, etc.). For purposes of this section, the value of such property transferred shall be the value as provided for in subsection (d) of this section.

"(2) *Two or more transferors.* If the credit provided in this section relates to property received from two or more transferors, the limitation provided in paragraph (1) of this subsection shall be computed by aggregating the value of the property so transferred to the decedent. The aggregate limitation so determined shall be apportioned in accordance with the value of the property transferred to the decedent by each transferor.

"(d) *Valuation of property transferred.* The value of property transferred to the decedent shall be the value used for the purpose of determining the Federal estate tax liability of the estate of the transferor but—

"(1) There shall be taken into account the effect of the tax imposed by sections 810 and 935, or any estate, succession, legacy, or inheritance tax, on the net value to the decedent of such property;

"(2) Where such property is encumbered in any manner, or where the decedent incurs any obligation imposed by the transferor with respect to such property, such en-

cumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to the decedent of such property was being determined; and

"(3) If the decedent was the spouse of the transferor at the time of the transferor's death, the net value of the property transferred to the decedent shall be reduced by the amount allowed under section 812(e) (relating to marital deductions) as a deduction from the gross estate of the transferor.

"(e) *Property defined.* For purposes of this section, the term 'property' includes any beneficial interest in property, including a general power of appointment (as defined in section 811(f)).

"(f) *Denial of deduction for property previously taxed.* If the executor elects the credit provided by this section, the deduction provided by section 812(c) shall not be allowed."

SEC. 2. No interest shall be allowed or paid on any overpayment resulting from the amendment made by the first section of this Act.

SEC. 65. PERIOD OF LIMITATION FOR FILING CLAIM FOR CREDIT FOR STATE DEATH TAXES [TECHNICAL AMENDMENTS ACT OF 1958, APPROVED SEPTEMBER 2, 1958]

(b) *Period under 1939 Code.* Section 813(b) of the Internal Revenue Code of 1939 (relating to period of limitations on credit for State death taxes) is amended by inserting after paragraph (2) the following new paragraph:

"(3) If a claim for refund or credit of an overpayment of tax imposed by this chapter has been filed within the time prescribed in section 910, then within such 4-year period or before the expiration of 60 days from the date of mailing by certified mail or registered mail by the Secretary or his delegate to the taxpayer of a notice of the disallowance of any part of such claim, or before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon such claim, whichever is later."

(c) * * * The amendment made by subsection (b) shall apply with respect to estates of decedents dying after February 10, 1939, and on or before August 16, 1954.

§ 81.8 [Amendment]

PAR. 3. Section 81.8(a), as amended by Treasury Decision 6034, approved July 29, 1953, is further amended by revising the first sentence (26 CFR (1939) 81.8(a)(1)) to read as follows: "If the decedent died after October 21, 1942, the credits authorized against the basic estate tax imposed by section 810 or section 860 are to be deducted in the following order: First, the credit for estate, inheritance, legacy, or succession taxes under § 81.9(a), second, the credit for gift tax under paragraph (b) of this section, third, the credit for gift tax under paragraph (c) of this section, fourth, if the decedent died after October 20, 1951, the credit under § 81.9(b) for death taxes paid to a foreign country, and, fifth, if the decedent died after December 31, 1951, the credit under §§ 81.9a to 81.9f, for Federal estate tax paid on certain transfers of property to the decedent."

§ 81.9 [Amendment]

PAR. 4. Section 81.9, as amended by Treasury Decision 6034, is further amended as follows:

(A) By amending the heading thereof to read as follows: "Credit for death taxes—(a) Taxes paid a State, Territory,

the District of Columbia or a possession of the United States—(1) In general."

(B) By inserting at the end of paragraph (a) the following:

(2) *Limitation on credit if a deduction is allowed under sections 2 and 4 of Public Law 414 (84th Cong.).* If a deduction is allowed under sections 2 and 4 of Public Law 414 (84th Cong.), approved February 20, 1956, for State death taxes paid with respect to a charitable gift (see § 81.37a), sections 3 and 4 of Public Law 414 subject the credit for State death taxes to special limitations. Under these limitations the credit cannot exceed the least of the following:

(i) The amount of State death taxes paid other than those for which a deduction is allowed under sections 2 and 4 of Public Law 414;

(ii) The amount indicated in section 813(b) to be the maximum credit allowable with respect to the decedent's net estate; or

(iii) An amount, A, which bears the same ratio to B (the amount which would be the maximum credit allowable under section 813(b) if the deduction under sections 2 and 4 of Public Law 414 were not allowed in computing the decedent's net estate) as C (the amount of State death taxes paid other than those for

which a deduction is allowed under sections 2 and 4 of Public Law 414) bears to D (the total amount of State death taxes paid). For the purpose of this computation, in determining what the decedent's net estate would be if the deduction under sections 2 and 4 of Public Law 414 were not allowed, adjustment must be made for the decrease in the deduction for charitable gifts under section 812(d) or 861(a)(3) (for estates of nonresidents not citizens) by reason of any increase in Federal estate tax which would be charged against the charitable gifts.

The application of this section may be illustrated by the following example:

Example. The decedent died January 1, 1954, leaving a gross estate of \$925,000. Expenses, indebtedness, etc., amounted to \$25,000. The decedent bequeathed \$400,000 to his son with the direction that the son bear the State death taxes on the bequest. The residuary estate was left to a charitable organization. Except as noted above, all Federal and State death taxes were payable out of the residuary estate. The State imposed death taxes of \$60,000 on the son's bequest and death taxes of \$75,000 on the bequest to charity. For purposes of determining the basic tax, the decedent's net estate (determined without regard to the limitation imposed by subdivision (iii) of this subparagraph) is computed as follows:

Gross estate				\$925,000.00
Expenses, indebtedness, etc.				\$25,000.00
Exemption				100,000.00
Deduction under sections 2 and 4 of P.L. 414				75,000.00
Charitable deduction:				
Gross estate		\$925,000.00		
Expenses, etc.	\$25,000.00			
Bequest to son	400,000.00			
State death tax paid from residue	75,000.00			
Federal estate tax paid from residue	122,916.67	622,916.67	302,083.33	502,083.33
Net estate for the purpose of determining the basic tax				422,916.67

If the deduction under sections 2 and 4 of Public Law 414 were not allowed, the decedent's net estate would be computed as follows:

Gross estate				\$925,000.00
Expenses, indebtedness, etc.				\$25,000.00
Exemption				100,000.00
Charitable deduction:				
Gross estate		\$925,000.00		
Expenses, etc.	\$25,000.00			
Bequest to son	400,000.00			
State death tax paid from residue	75,000.00			
Federal estate tax paid from residue	155,000.00	655,000.00	270,000.00	395,000.00
Net estate for the purpose of determining the basic tax				530,000.00

On a net estate of \$530,000, the maximum credit allowable under section 813(b) would be \$15,200. Under these facts, the credit for State death taxes is determined as follows:

(1) Amount of State death taxes paid other than those for which a deduction is allowed under sections 2 and 4 of Public Law 414 (\$135,000—\$75,000)	\$60,000.00
(2) Amount indicated in section 813(b) to be the maximum credit allowable with respect to the decedent's net estate of \$422,916.67	10,916.67
(3) Amount determined by use of the ratio described in subdivision (iii) of this subparagraph $\left(\frac{\$60,000}{\$135,000} \times \$15,200 \right)$	6,755.56
(4) Credit for State death taxes (least of items (1) through (3) above)	6,755.56

(C) By amending paragraph (c) to read as follows:

(c) *Claim for credit or refund and interest on refund.* (1) *In general.* The credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return, except as otherwise provided in this paragraph. If a petition is filed with the Tax Court for the redetermination of a deficiency within the time prescribed by section 871(a) (see § 81.73), the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the expiration of 60 days after the decision of the Tax Court becomes final, whichever period is the last to expire. If an extension of time has been granted for payment of the tax shown on the return

or of a deficiency under section 822(a) (2) or section 871(h), the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the date of the expiration of the extension, whichever period is the last to expire. Should the executor, in accordance with the provisions of sections 925 and 926, elect to postpone the payment of the Federal estate tax attributable to a reversionary or remainder interest, the credit allowable against the tax attributable to such interest is limited to estate, inheritance, legacy, or succession taxes attributable to such interest as are actually paid and credit therefor claimed within four years after the filing of the return or prior to the expiration of 60 days after the termination of the precedent interest, whichever period is the last to expire. However, if in accordance with sections 925 and 926 there is a postponement, or postponement and extension, of the time for payment of such tax and if the precedent interest did not terminate before July 5, 1958, credit may be allowed for such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the expiration of the time for payment as postponed pursuant to section 925 and as extended (on account of undue hardship) under such section, whichever period is the last to expire. See section 927 of the Internal Revenue Code and § 81.79(b).

(2) *Rule applicable to credit for State death taxes only.* If a claim for refund or credit of an overpayment of the Federal estate tax is timely filed, the credit for death taxes paid to a State, Territory, the District of Columbia, or a possession of the United States is limited to such taxes as were actually paid and credit therefor claimed (i) within four years after the filing of the return, or (ii) before the expiration of 60 days from the date of mailing by certified or registered mail of a notice of disallowance of any part of the claim, or (iii) before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon the claim, whichever period is the last to expire.

(3) *Refund and interest.* Refund based on the credit, despite the provisions of sections 910, 911, and 912, will be made if claim therefor is filed within the period provided for filing claim for credit. Such refunds will be made without interest.

PAR. 5. There is inserted after § 81.9 the following new sections:

§ 81.9a Credit for tax on prior transfers.

(a) *In general.* The executor of a present decedent's estate may elect to have a credit allowed under section 814 against the Federal estate tax imposed on the present decedent's estate for Federal estate tax paid on the transfer of property to the present decedent from a transferor who died within two years before the present decedent's death, provided all of the following conditions are satisfied:

(1) The present decedent was a citizen or resident of the United States at the time of his death;

(2) The present decedent died after December 31, 1951; and

(3) The present decedent was the spouse of the transferor at the time of the transferor's death.

For purposes of §§ 81.9a through 81.9f, the term "Federal estate tax" means the tax imposed by sections 810, 860, and 935. The word "within" as used in this paragraph means "during". Therefore, if a death occurs on the second anniversary of another death, the first death is considered to have occurred within the two years before the second death. See § 81.9e for definition of the terms "property" and "transfer". There is no requirement that the transferred property be identified in the estate of the present decedent or that the property be in existence at the time of the decedent's death. It is sufficient that the transfer of the property was subjected to Federal estate tax in the estate of the transferor and that the other conditions set forth in this paragraph are satisfied. The executor must submit such proof as may be requested by the district director in order to establish the right of the estate to the credit. No interest is allowed or paid on any refund resulting from the application of section 814. If an executor elects a credit under this paragraph, the deduction provided by section 812(c)

(§ 81.41) shall not be allowed for purposes of determining the present decedent's net estate.

(b) *Limitations on credit.* The credit for tax on prior transfers is limited to the smaller of the following amounts:

(1) The amount of the Federal estate tax attributable to the transferred property in the transferor's estate, computed as set forth in § 81.9b; or

(2) The amount of the Federal estate tax attributable to the transferred property in the present decedent's estate, computed as set forth in § 81.9c.

Rules for valuing property for purposes of the credit are contained in § 81.9d.

(c) *Example.* For an illustration of the application of this section, see the example in § 81.9f.

§ 81.9b First limitation.

(a) *Tax attributable to transferred property in transferor's estate.* The amount of the Federal estate tax attributable to the transferred property in the transferor's estate is the "first limitation." Thus, the credit is limited to an amount, A, which bears the same ratio to B (the "transferor's adjusted Federal estate tax", computed as described in paragraph (b) of this section) as C (the value of the property transferred (see § 81.9d)) bears to D (the "transferor's adjusted net estate", computed as described in paragraph (c) of this section). Stated algebraically, the "first limitation" (A) equals

$$\frac{\text{Value of transferred property (C)}}{\text{"Transferor's adjusted net estate" (D)}} \times \text{"Transferor's adjusted Federal estate tax" (B)}$$

(b) *Transferor's adjusted Federal estate tax.* For purposes of the ratio stated in paragraph (a) of this section, the "transferor's adjusted Federal estate tax" referred to as factor "B" is the amount of the Federal estate tax paid with respect to the transferor's estate plus:

(1) Any credit allowed the transferor's estate for gift tax under sections 813(a) and 936(b); and

(2) Any credit allowed the transferor's estate, under section 814, for tax on prior transfers, but only if the transferor acquired property from a person who died within two years before the death of the present decedent.

(c) *Transferor's adjusted net estate.*

For purposes of the ratio stated in paragraph (a) of this section, the "transferor's adjusted net estate" referred to as factor "D" is the amount of the transferor's net estate for purposes of the tax imposed by section 935, decreased by the amount of any "death taxes" paid with respect to his gross estate and increased by the amount of the exemption allowed under section 935(c) in computing his net estate. The amount of the transferor's net estate is determined in accordance with the provisions of § 81.6. The term "death taxes" means the Federal estate tax (both the basic tax and the additional tax) plus all other estate, inheritance, legacy, succession, or similar death taxes imposed by and paid to any taxing authority, whether within or

without the United States. However, only the net amount of such taxes paid is taken into consideration.

(d) *More than one transferor.* If the credit for tax on prior transfers relates to property received from more than one transferor (as might be the case if following the death of his first wife the decedent remarried and the second wife also predeceased the decedent, with all three deaths taking place within a two year period), the provisions of this section are to be applied separately with respect to the property received from each transferor.

(e) *Example.* For an illustration of the application of this section, see the example in § 81.9f.

§ 81.9c Second limitation.

(a) *Tax attributable to transferred property in present decedent's estate.* The amount of the Federal estate tax attributable to the transferred property in the present decedent's estate is the "second limitation". Thus, the credit is limited to the difference between—

(1) The total estate tax payable (see § 81.7) with respect to the present decedent's estate, determined without regard to any credit for tax on prior transfers under section 814 or any credit for foreign death taxes claimed under the provisions of a death tax convention, and

(2) The total estate tax determined as provided in subparagraph (1) of this paragraph, but computed by subtracting

from the present decedent's gross estate the value of the property transferred (see § 81.9d), and by making only the adjustment indicated in paragraph (b) of this section if a charitable deduction is allowable to the estate of the present decedent.

(b) *Reduction of charitable deduction.* If a charitable deduction is allowable to the estate of the present decedent under the provisions of section 812(d), for purposes of determining the tax described in paragraph (a)(2) of this section, the charitable deduction otherwise allowable is reduced by an amount, E, which bears the same ratio to F (the charitable deduction otherwise allowable) as G (the value of the transferred property (see § 81.9d)) bears to H (the value of the present decedent's gross estate reduced by the amount of the deductions for expenses, indebtedness, taxes, losses, etc., allowed under the provisions of section 812(b)).

(c) *More than one transferor.* If the credit for tax on prior transfers relates to property received from more than one transferor, the property received from all such transferors is aggregated in determining the limitation on credit under this section (the "second limitation"). However, the limitation so determined is apportioned to the property received from each transferor in the ratio that the property received from each transferor bears to the total property received from all transferors.

(d) *Example.* For an illustration of the application of this section, see the example in § 81.9f.

§ 81.9d Valuation of property transferred.

(a) *In general.* For purposes of section 814 and §§ 81.9a through 81.9f, the value of the property transferred to the decedent is the value at which such property was included in the transferor's gross estate for the purpose of the Federal estate tax (see §§ 81.10 and 81.11) reduced as indicated in paragraph (b) of this section. If the decedent received a life estate or remainder or other limited interest in property included in the transferor's gross estate, the value of the interest is determined as of the date of the transferor's death on the basis of recognized valuation principles (see especially paragraphs (i) and (j) of § 81.10). The application of this paragraph may be illustrated by the following examples (in each of which H was the husband and W was the wife):

Example (1). H died on January 1, 1951, leaving Blackacre to W. The property was included in H's gross estate at a value of \$100,000. On December 1, 1952, W sold Blackacre to C for \$150,000. W died on January 1, 1953. For purposes of computing the credit against the tax imposed on W's estate, the value of the property transferred to W is \$100,000.

Example (2). H died on July 1, 1952, leaving Blackacre to W for life and, upon W's death, remainder to C who was W's sister. At the time of H's death, W was 56 years of age. The property was included in H's gross estate at a value of \$100,000. The part of that value attributable to the life estate is \$44,688 (see paragraph (i) of section 81.10), and the part of that value attributable to the remainder is \$55,312. W died on Jan-

uary 1, 1954, and C died on July 1, 1954. For purposes of computing the credit against the tax imposed on W's estate, the value of the property transferred to W is \$44,688. It should be noted that no credit under section 814 is allowable to C's estate in this example since C was not married to H at the time of H's death.

(b) *Special adjustments.* In arriving at the value of the property transferred to the decedent, the value at which the property was included in the transferor's gross estate (see paragraph (a) of this section) is reduced as follows:

(1) By the amount of the Federal estate tax and any other estate, inheritance, legacy, or succession taxes which were payable out of the property transferred to the decedent or which were payable by the decedent in connection with the property transferred to him. For example, if under the transferor's will or local law all death taxes are to be paid out of other property with the result that the decedent receives a bequest free and clear of all death taxes, no reduction is to be made under this subparagraph;

(2) By the amount of any marital deduction allowed the transferor's estate under section 812(e); and

(3) (i) By the amount of any encumbrance on the property or by the amount of any obligation imposed by the transferor and incurred by the decedent with respect to the property, to the extent such charges would be taken into account if the amount of a gift to the decedent of such property were being determined.

(ii) For purposes of this subparagraph, an obligation imposed by the transferor and incurred by the decedent with respect to the property includes a bequest, etc., in lieu of the interest of the surviving spouse under community property laws, unless the interest was, immediately prior to the transferor's death, a mere expectancy. (As to the circumstances under which the interest of a surviving spouse is regarded as a mere expectancy, see the provisions of paragraph (b) of § 81.47d which are equally applicable here.) However, an obligation imposed by the transferor and incurred by the decedent with respect to the property does not include a bequest, devise, or other transfer in lieu of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the transferors' property or estate.

(iii) The application of this subparagraph may be illustrated by the following examples:

Example (1). The transferor devised to the decedent real estate subject to a mortgage. The value of the property transferred to the decedent does not include the amount of the mortgage. If, however, the transferor by his will directs the executor to pay off the mortgage, such payment constitutes an additional amount transferred to the decedent.

Example (2). The transferor bequeathed certain property to the decedent with a direction that the decedent pay \$1,000 to X. The value of the property transferred to the decedent is the value of the property reduced by \$1,000.

Example (3). The transferor bequeathed certain property to his wife, the decedent, in lieu of her interest in property held by them as community property under the law of the State of their residence. The wife elected to

relinquish her community property interest and to take the bequest. The value of the property transferred to the decedent is the value of the property reduced by the value of the community property interest relinquished by the wife.

Example (4). The transferor bequeathed his entire residuary estate to the decedent, out of which certain claims were to be satisfied. The entire distributable income of the transferor's estate (during the period of its administration) was applied toward the satisfaction of these claims and the remaining portion of the claims was satisfied by the decedent out of her own funds. Thus, the decedent received a larger sum upon settlement of the transferor's estate than she was actually bequeathed. The value of the property transferred to the decedent is the value at which such property was included in the transferor's gross estate, reduced by the amount of the estate income and the decedent's own funds paid out in satisfaction of the claims.

§ 81.9e Property and transfer defined.

(a) *Property.* For purposes of section

814 and §§ 81.9a through 81.9f, the term "property" means any beneficial interest in property, including a general power of appointment (as defined in section 811(f)) over property. Thus, the term does not include an interest in property consisting merely of a bare legal title, such as that of a trustee. Nor does the term include a power of appointment over property which is not a general power of appointment (as defined in section 811(f)). Examples of property, as described in this paragraph, are annuities, life estates, estates for terms of years, vested or contingent remainders and other future interests.

(b) *Transfer.* In order to obtain the credit for tax on prior transfers, there must be a transfer of property described in paragraph (a) of this section by or from the transferor to the decedent. The term "transfer" of property by or from a transferor means any passing of property or an interest in property under circumstances which were such that the property or interest was included in the gross estate of the transferor. In this connection, if the decedent receives property as a result of the exercise or nonexercise of a power of appointment, the donee of the power (and not the creator) is deemed to be the transferor of the property if the property subject to the power is includible in the donee's gross estate under section 811(f) (relating to powers of appointment). Thus, notwithstanding the designation by local law of the capacity in which the decedent takes, property received from the transferor includes interests in property held by or devolving upon the decedent: (1) As spouse under dower or curtesy laws or laws creating an estate in lieu of dower or curtesy; (2) as surviving tenant of a tenancy by the entirety or joint tenancy with survivorship rights; (3) as beneficiary of the proceeds of life insurance; (4) as survivor under an annuity contract; (5) as donee (possessor) of a general power of appointment (as defined in section 811(f)); (6) as appointee under the exercise of a general power of appointment (as defined in section 811(f)); or (7) as remainderman under the release or nonexercise of a power of appointment by reason of which the property is included

in the gross estate of the donee of the power under section 811(f).

(c) *Example.* The application of this section may be illustrated by the following example:

Example. H died on July 1, 1951. He devised Blackacre to B, as trustee with directions to pay the income therefrom to W, H's wife, for life. Upon W's death, Blackacre is to be sold. W was given a general testamentary power to appoint one-third of the proceeds, and a testamentary power, which is not a general power, to appoint the remaining two-thirds of the proceeds to such of H's issue as she should choose. W died on June 1, 1953. W's life estate in Blackacre and her testamentary power over the one-third interest in the remainder constitute "property" received from H for purposes of the credit in W's estate. The nongeneral testamentary power over the remaining two-thirds interest in the proceeds of the sale does not constitute "property" for purposes of the credit in W's estate.

§ 81.9f Example.

The application of §§ 81.9a through 81.9e may be further illustrated by the following example:

Example (a) Facts. H died December 1, 1952, leaving a gross estate of \$1,000,000. Expenses, indebtedness, etc., amounted to \$90,000. H bequeathed \$200,000 to W, his wife, \$100,000 of which qualified for the marital deduction. W died November 1, 1953, leaving a gross estate of \$500,000. Expenses, indebtedness, etc., amounted to \$40,000. W bequeathed \$150,000 to charity. H and W were both citizens of the United States. The estates of H and W both paid State death taxes equal to the maximum credit allowable for State death taxes. Death taxes were not a charge on the bequest to W or on the bequest to charity. The executor of W's estate elects to apply the credit provided by section 814 in determining the Federal estate tax on W's estate.

(b) "First limitation" on credit for W's estate (§ 81.9b)—(1) H's basic estate tax.

H's gross estate	\$1,000,000.00
Expenses, indebtedness, etc.	90,000.00
H's adjusted gross estate	910,000.00
Marital deduction	\$100,000.00
Exemption	100,000.00
	200,000.00

H's net estate

H's gross basic estate tax

H's net basic estate tax payable

(2) H's additional estate tax.

Net estate (computed in same manner as net estate for basic estate tax except for difference in specific exemption)

H's net additional estate tax payable

(3) H's total estate tax payable.

Sum of net basic and net additional taxes

(4) Computation of limitation.

"First limitation"—\$209,-

920.00 (§ 81.9b(b)) ×

\$200,000.00—\$100,000.00

(§ 81.9d)

\$750,000.00—\$209,920.00

—\$23,280.00+\$60,000.00

(§ 81.9b(c))

(c) "Second limitation" on credit for W's

estate (§ 81.9c)—(1) W's total estate tax payable as described in § 81.9c(a) (1) (previously taxed transfer included)—(i) W's basic estate tax.

W's gross estate	\$500,000.00
Expenses, indebtedness, etc.	\$40,000.00
Charitable deduction	150,000.00
Exemption	100,000.00
	290,000.00

W's net estate

W's gross basic estate tax

Credit for State death taxes

W's net basic estate tax payable

(ii) W's additional estate tax.

Net estate (computed in same manner as net estate for basic estate tax except for difference in specific exemption)

W's net additional estate tax payable

(iii) W's total estate tax payable.

Sum of net basic and net additional taxes

(2) W's total estate tax payable as described in § 81c(a)(2) (previously taxed transfer excluded)—(1) W's basic estate tax.

W's gross estate	\$400,000.00
Expenses, indebtedness, etc.	\$40,000.00
Charitable deduction (§ 81.9c(b))	\$150,000.00
—(\$150,000.00 ×	
\$200,000.00	
—\$100,000.00	
\$500,000.00	
—\$40,000.00	
	117,391.30

Exemption

W's net estate

W's gross basic estate tax

Credit for State death taxes

W's net basic estate tax payable

(ii) W's additional estate tax.

Net estate (computed in same manner as net estate for basic estate tax except for difference in specific exemption)

W's net additional estate tax payable

(iii) W's total estate tax payable.

Sum of net basic and net additional taxes

(3) "Second limitation".

Subparagraph (1)—\$61,780.00

Less: Subpara-

graph (2)-----

43,260.00

\$18,520.00

(d) Credit of W's estate for tax on prior transfers (§ 81.9a(c)).

Credit for tax on prior transfers=\$18,520.00 (lower of paragraphs (b) and (c)).

PAR. 6. There is inserted immediately after section 208 of the Technical Changes Act of 1953, and preceding section 302(c) of the Revenue Act of 1926 (as originally enacted), which precede § 81.15, the following:

PUBLIC LAW 414 (EIGHTY-FOURTH CONGRESS, SECOND SESSION), APPROVED FEBRUARY 20, 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 208 (b) of the Technical Changes Act of 1953 is amended by striking out "1950" and inserting in lieu thereof "1947". (b) The amendment made by subsection (a) shall be effective as if enacted as a part of section 208(b) of the Technical Changes Act of 1953.

PUBLIC LAW 901 (EIGHTY-FOURTH CONGRESS, SECOND SESSION), APPROVED AUGUST 1, 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if, in the case of property transferred by a decedent dying after February 10, 1939, refund or credit of any overpayment resulting from the application of subsections (a) and (b) of section 7 of the Act entitled "An Act to amend certain provisions of the Internal Revenue Code", approved October 25, 1949 (63 Stat. 891; Public Law 378, Eighty-first Congress), was prevented on October 25, 1949, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939, relating to closing agreements, and other than section 3761 of such Code of 1939, relating to compromises), refund or credit of such overpayment (reduced as provided in section 2) may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 2. The amount of the reduction referred to in the first section of this Act is the amount of gift tax refunded (together with interest paid thereon) by the United States by reason of the inclusion in the gross estate of the value of the property causing the overpayment resulting from the application of subsections (a) and (b) of section 7 of the Act approved October 25, 1949.

SEC. 3. No interest shall be allowed or paid on any overpayment resulting from the application of this Act.

§ 81.17 [Amendment]

PAR. 7. Section 81.17, as amended by Treasury Decision 6078, approved July 7, 1954, is further amended by adding the following new paragraph at the end of subparagraph (2) of paragraph (c) thereof:

Public Law 901 (84th Cong.), approved August 1, 1956, provides that in the case of property transferred by a decedent dying after February 10, 1939, if refund or credit of any overpayment resulting

from the application of subsections (a) and (b) of section 7 of Public Law 378 was prevented on October 25, 1949, by operation of any law or rule of law (other than section 3760, relating to closing agreements, and section 3761, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed on or before August 1, 1957. However, the amount of the overpayment is reduced by the amount of any gift tax refunded (together with interest paid thereon) by the United States by reason of the inclusion in the gross estate of the value of the property causing the overpayment resulting from the application of subsections (a) and (b) of section 7 of Public Law 378. No interest is allowed or paid on any overpayment resulting from the application of Public Law 901.

§ 81.20 [Amendment]

PAR. 8. Section 81.20, as amended by Treasury Decision 6073, is further amended by striking "1950" from the last undesignated paragraph (26 CFR (1939) 81.20(b)(4)) of paragraph (b), and by substituting in lieu thereof "1947".

PAR. 9. There is inserted immediately preceding § 81.29 the following:

PUBLIC LAW 414 (EIGHTY-FOURTH CONGRESS, SECOND SESSION), APPROVED FEBRUARY 20, 1956

SEC. 2. Section 2053 of the Internal Revenue Code of 1954 (relating to deductions from the gross estate for expenses, indebtedness, and taxes) is hereby amended by redesignating subsection (d) to be subsection (e) and by adding after subsection (c) a new subsection as follows:

"(d) *Certain State death taxes*—(1) *General rule*. Notwithstanding the provisions of subsection (c) (1)(B) of this section, for purposes of the tax imposed by section 2001 the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501, by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary or his delegate) of any estate, succession, legacy or inheritance tax imposed by a State or Territory or the District of Columbia, or any possession of the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055 or 2106(a)(2). The election shall be exercised in accordance with regulations prescribed by the Secretary or his delegate.

"(2) *Condition for allowance of deduction*. No deduction shall be allowed under paragraph (1) for a State death tax specified therein unless the decrease in the tax imposed by section 2001 which results from the deduction provided for in paragraph (1) will inure solely for the benefit of the public, charitable, or religious transferees described in section 2055 or section 2106(a)(2). In any case where the tax imposed by section 2001 is equitably apportioned among all the transferees of property included in the gross estate, including those described in sections 2055 and 2106(a)(2) (taking into account any exemptions, credits, or deductions allowed by this chapter), in determining such decrease, there shall be disregarded any decrease in the

Federal estate tax which any transferees other than those described in sections 2055 and 2106(a)(2) are required to pay.

"(3) *Effect of deduction on credit for State death taxes*. See section 2011(e) for the effect of a deduction taken under this subsection on the credit for State death taxes."

SEC. 4. The amendments to the Internal Revenue Code of 1954 made by sections 2 and 3 of this Act, and provisions having the same effect as this amendment, which shall be considered to be included in chapter 3 of the Internal Revenue Code of 1939, shall apply to the estates of all decedents dying after December 31, 1953.

§ 81.37 [Amendment]

PAR. 10. The last sentence of § 81.37 is amended to read as follows: "Except as otherwise provided in § 81.37a with respect to certain death taxes paid on charitable, etc., transfers, no estate, succession, legacy, or inheritance tax is deductible."

PAR. 11. There is inserted after § 81.37 the following new section:

§ 81.37a Deduction for certain State death taxes.

(a) *General rule*. If the decedent died after December 31, 1953, a deduction is allowed his estate under sections 2 and 4 of Public Law 414 (84th Cong.), approved February 20, 1956, for the amount of any estate, succession, legacy, or inheritance tax imposed by a State, Territory, the District of Columbia, or any possession of the United States upon a transfer by the decedent for charitable, etc., uses described in section 812(d) or 861(a)(3) (relating to the estates of nonresidents not citizens), but only if (1) the conditions stated in paragraph (b) of this section are met, and (2) an election is made in accordance with the provisions of paragraph (c) of this section. See sections 3 and 4 of Public Law 414 and § 81.9(a)(2) for the effect which the allowance of this deduction has upon the credit for State death taxes.

(b) *Condition for allowance of deduction*. (1) The deduction is not allowed unless either—

(i) The entire decrease in the Federal estate tax resulting from the allowance of the deduction inures solely to the benefit of a charitable, etc., transferee described in section 812(d) or 861(a)(3), or

(ii) The Federal estate tax is equitably apportioned among all the transferees (including the decedent's surviving spouse and the charitable, etc., transferees) of property included in the decedent's gross estate.

For allowance of the deduction, it is sufficient if either of these conditions is satisfied. Thus, in a case where the entire decrease in Federal estate tax inures to the benefit of a charitable transferee, the deduction is allowable even though the Federal estate tax is not equitably apportioned among all the transferees of property included in the decedent's gross estate. Similarly, if the Federal

estate tax is equitably apportioned among all the transferees of property included in the decedent's gross estate, the deduction is allowable even though a noncharitable transferee receives some benefit from the allowance of the deduction.

(2) For purposes of this paragraph, the Federal estate tax is considered to be equitably apportioned among all the transferees (including the decedent's surviving spouse and the charitable, etc., transferees) of property included in the decedent's gross estate only if each transferee's share of the tax is based upon the net amount of his bequest subjected to the tax (taking into account any exemptions, credits, or deductions allowed by chapter 3). See examples (2) through (5) of paragraph (e) of this section.

(c) *Exercise of election*. The election to take a deduction for a State death tax imposed upon a transfer for charitable, etc., uses shall be exercised by the executor by the filing of a written notification to that effect with the district director of internal revenue in whose district the estate tax return for the decedent's estate was filed. The notification shall be filed before the expiration of the period of limitation for assessment provided in section 874 (usually 3 years from the last day for filing the return). The election may be revoked by the executor by the filing of a written notification to that effect with the district director at any time before the expiration of such period.

(d) *Amount of State death tax imposed upon a transfer*. If a State death tax is imposed upon the transfer of the decedent's entire estate and not upon the transfer of a particular share thereof, the State death tax imposed upon a transfer for charitable, etc., uses is deemed to be an amount, E, which bears the same ratio to F (the amount of the State death tax imposed with respect to the transfer of the entire estate) as G (the value of the charitable, etc., transfer, reduced as provided in the next sentence) bears to H (the total value of the properties, interests, and benefits subjected to the State death tax received by all persons interested in the estate, reduced as provided in the last sentence of this paragraph). In arriving at amount G of the ratio, the value of the charitable, etc., transfer is reduced by the amount of any deduction or exclusion allowed with respect to such property in determining the amount of the State death tax. In arriving at amount H of the ratio, the total value of the properties, interests, and benefits subjected to State death tax received by all persons interested in the estate is reduced by the amount of all deductions and exclusions allowed in determining the amount of the State death tax on account of the nature of a beneficiary or a beneficiary's relationship to the decedent.

(e) *Examples*. The application of this section may be illustrated by the following examples:

Example (1). The decedent's gross estate was valued at \$200,000. He bequeathed \$90,000 to a nephew, \$10,000 to Charity A, and the remainder of his estate to Charity B. State inheritance tax in the amount of \$13,500 was imposed upon the bequest to the nephew, \$1,500 upon the bequest to Charity A, and \$15,000 upon the bequest to Charity B. Under the will and local law, each legatee is required to pay the State inheritance tax on his bequest, and the Federal estate tax is to be paid out of the residuary estate. Since the entire burden of paying the Federal estate tax falls on Charity B, it follows that the decrease in the Federal estate tax resulting from the allowance of deductions for State death taxes in the amounts of \$1,500 and \$15,000 would inure solely for the benefit of Charity B. Therefore, deductions of \$1,500 and \$15,000 are allowable under sections 2 and 4 of Public Law 414. If, in this example, the State death taxes as well as the Federal estate tax were to be paid out of the residuary estate, the result would be the same.

Example (2). The decedent's gross estate was valued at \$350,000. Expenses, indebtedness, etc., amounted to \$50,000. The entire estate was bequeathed in equal shares to a son, a daughter, and Charity C. State inheritance tax in the amount of \$2,000 was imposed upon the bequest to the son, \$2,000 upon the bequest to the daughter, and \$5,000 upon the bequest to Charity C. Under the will and local law, each legatee is required to pay his own State inheritance tax and his proportionate share of the Federal estate tax determined by taking into consideration the net amount of his bequest subjected to the tax. Since each legatee's share of the Federal estate tax is based upon the net amount of his bequest subjected to the tax (note that the deductions under sections 2 and 4 of Public Law 414 and under section 812(d) will have the effect of reducing Charity C's proportionate share of the tax), the tax is considered to be equitably apportioned. Thus, a deduction of \$5,000 is allowable under sections 2 and 4 of Public Law 414. This deduction together with a deduction of \$95,000 under section 812(d) (charitable deduction) will mean that none of Charity C's bequest is subjected to Federal estate tax. Hence, the son and the daughter will bear the entire estate tax.

Example (3). The decedent bequeathed his property in equal shares, after payment of all expenses, to a son, a daughter, and a charity. State inheritance tax of \$2,000 was imposed upon the bequest to the son, \$2,000 upon the bequest to the daughter, and \$15,000 upon the bequest to the charity. Under the will and local law, each beneficiary pays the State inheritance tax on his bequest and the Federal estate tax is to be paid out of the estate as an administration expense. If the deduction for State death tax on the charitable bequest is allowed in this case, some portion of the decrease in the Federal estate tax would inure to the benefit of the son and the daughter. The Federal estate tax is not considered to be equitably apportioned in this case since each legatee's share of the Federal estate tax is not based upon the net amount of his bequest subjected to the tax (note that the deductions under sections 2 and 4 of Public Law 414 and under section 812(d) will not have the effect of reducing the charity's proportionate share of the tax). Inasmuch as some of the decrease in the Federal estate tax payable would inure to the benefit of the son and the daughter, and inasmuch as there is no equitable apportionment of the tax, no deduction is allowable under sections 2 and 4 of Public Law 414.

Example (4). The decedent bequeathed his entire residuary estate in trust to pay the income to X for life with remainder to charity. The State imposed inheritance taxes of \$2,000 upon the bequest to X and

\$10,000 upon the bequest to charity. Under the will and local law, all State and Federal taxes are payable out of the residuary estate and therefore they would reduce the amount which would become the corpus of the trust. If the deduction for the State death tax on the charitable bequest is allowed in this case, some portion of the decrease in the Federal estate tax would inure to the benefit of X since the allowance of the deduction would increase the size of the corpus from which X is to receive the income for life. Also, the Federal estate tax is not considered to be equitably apportioned in this case since each legatee's share of the Federal estate tax is not based upon the net amount of his bequest subjected to the tax (note that the deductions under sections 2 and 4 of Public Law 414 and under section 812(d) will not have the effect of reducing the charity's proportionate share of the tax). Inasmuch as some of the decrease in the Federal estate tax payable would inure to the benefit of X, and inasmuch as there is no equitable apportionment of the tax, no deduction is allowable under sections 2 and 4 of Public Law 414.

Example (5). The decedent's gross estate was valued at \$750,000. Expenses, indebtedness, etc., amounted to \$50,000. The decedent bequeathed \$350,000 of his estate to his surviving spouse and the remainder of his estate equally to his son and Charity D. State inheritance tax in the amount of \$7,000 was imposed upon the bequest to the surviving spouse, \$26,250 upon the bequest to the son, and \$26,250 upon the bequest to Charity D. The will was silent concerning the payment of taxes. In such a case, the local law provides that each legatee shall pay his own State inheritance tax. The local law further provides for an apportionment of the Federal estate tax among the legatees of the estate. Under the apportionment provisions, the surviving spouse is not required to bear any part of the Federal estate tax with respect to her \$350,000 bequest. It should be noted, however, that the marital deduction allowed to the decedent's estate by reason of the bequest to the surviving spouse is limited to \$343,000 (\$350,000 bequest less \$7,000 State inheritance tax payable by the surviving spouse). Thus, the bequest to the surviving spouse is subjected to the Federal estate tax in the net amount of \$7,000. If the deduction for State death tax on the charitable bequest is allowed in this case, some portion of the decrease in the Federal estate tax would inure to the benefit of the son. The Federal estate tax is not considered to be equitably apportioned in this case since each legatee's share of the Federal estate tax is not based upon the net amount of his bequest subjected to the tax (note that the surviving spouse is to pay no tax). Inasmuch as some of the decrease in the Federal estate tax payable would inure to the benefit of the son, and inasmuch as there is no equitable apportionment of the tax, no deduction is allowable under sections 2 and 4 of Public Law 414.

PAR. 12. There is inserted immediately preceding § 81.47a the following:

PUBLIC LAW 85-318, APPROVED FEBRUARY 11, 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 812(e)(1)(D) of the Internal Revenue Code of 1939 (relating to bequests of an interest to a surviving spouse conditional on survival for a limited period) is amended by adding at the end thereof the following:

"For the purposes of subparagraph (B), an event or contingency shall not be considered an event or contingency upon the occurrence of which an interest passing to

the surviving spouse will terminate or fail if—

"(iii) Within six months after the date of the decedent's death, such event or contingency becomes impossible of occurrence; and

"(iv) The decedent was adjudged incompetent before April 2, 1948, and was not restored to competency before his death."

SEC. 2. The amendment made by this Act shall apply with respect to decedents dying after April 2, 1948.

SEC. 3. No interest shall be allowed or paid on any overpayment resulting from the amendment made by this Act.

SEC. 93. BEQUESTS, ETC., TO SURVIVING SPOUSE [TECHNICAL AMENDMENTS ACT OF 1958, APPROVED SEPTEMBER 2, 1958].

(a) *Amendment of 1939 Code.* Section 812(e)(1)(F) of the Internal Revenue Code of 1939 (relating to trust with power of appointment in surviving spouse) is amended to read as follows:

"(F) *Life estate with power of appointment in surviving spouse.* In the case of an interest in property passing from the decedent, if his surviving spouse is entitled for life to all the income from the entire interest, or all the income from a specific portion thereof, payable annually or at more frequent intervals, with power in the surviving spouse to appoint the entire interest, or such specific portion (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the interest, or such specific portion, to any person other than the surviving spouse—

"(i) The interest or such portion thereof so passing shall, for purposes of subparagraph (A), be considered as passing to the surviving spouse, and

"(ii) No part of the interest so passing shall, for purposes of subparagraph (B)(1), be considered as passing to any person other than the surviving spouse.

This subparagraph shall apply only if such power in the surviving spouse to appoint the entire interest, or such specific portion thereof, whether exercisable by will or during life, is exercisable by such spouse alone and in all events."

(b) *Effective date.* The amendment made by subsection (a) shall apply with respect to estates of decedents dying after April 1, 1948, and before August 17, 1954. If refund or credit of any overpayment resulting from the application of such amendment is prevented on the date of the enactment of this Act, or at any time within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue Code of 1954, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year after the date of the enactment of this Act. No interest shall be allowed or paid on any overpayment resulting from the enactment of this section.

§ 81.47a [Amendment]

PAR. 13. Section 81.47a, as amended by Treasury Decision 6082, approved August 2, 1954, is further amended—

(A) By striking the word "trusts" in the second sentence of paragraph (b) (2) (26 CFR (1939) 81.47a(b)(2)(i)) and inserting in lieu thereof "life interests".

(B) By amending paragraph (c) to read as follows:

(c) *Marital deduction; life estate with power of appointment in surviving spouse*—(1) *In general.* Except as otherwise provided in subparagraph (10) of this paragraph (pertaining to estates of decedents dying after December 31, 1947, and on or before April 1, 1948), if an interest in property passes from the decedent to his surviving spouse (whether or not in trust) and the spouse is entitled for life to all the income from the entire interest or all the income from a specific portion of the entire interest, with a power in her to appoint the entire interest or the specific portion, the interest which passes to her is under the provisions of section 812(e)(1)(F), as amended by section 93(a) of the Technical Amendments Act of 1958, a deductible interest, to the extent that it satisfies all five of the conditions set forth below (see subparagraph (2) of this paragraph if one or more of the conditions is satisfied as to only a portion of the interest):

(i) The surviving spouse must be entitled for life to all of the income from the entire interest or a specific portion of the entire interest, or to a specific portion of all the income from the entire interest.

(ii) The income payable to the surviving spouse must be payable annually or at more frequent intervals.

(iii) The surviving spouse must have the power to appoint the entire interest or the specific portion to either herself or her estate.

(iv) The power in the surviving spouse must be exercisable by her alone and (whether exercisable by will or during life) must be exercisable in all events.

(v) The entire interest or the specific portion must not be subject to a power in any other person to appoint any part to any person other than the surviving spouse.

(2) *Specific portion; deductible amount.* If either the right to income or the power of appointment passing to the surviving spouse pertains only to a specific portion of a property interest passing from the decedent, the marital deduction is allowed only to the extent that the rights in the surviving spouse meet all of the five conditions described in subparagraph (1) of this paragraph. While the rights over the income and the power must coexist as to the same interest in property, it is not necessary that the rights over the income or the power as to such interest be in the same proportion. However, if the rights over income meeting the required conditions set forth in subparagraph (1) (i) and (ii) of this paragraph extend over a smaller share of the property interest than the share with respect to which the power of appointment requirements set forth in subparagraph (1) (iii) through (v) of this paragraph are satisfied, the deductible interest is limited to the smaller share. Correspondingly, if a power of appointment meeting all the requirements extends to a smaller portion of the property interest than the portion over which the income rights pertain, the deductible interest cannot exceed the value of the portion to which such power of appointment applies. Thus, if the de-

cedent leaves to his surviving spouse the right to receive annually all of the income from a particular property interest and a power of appointment meeting the specifications prescribed in subparagraph (1) (iii) through (v) of this paragraph as to only one-half of the property interest, then only one-half of the property interest is treated as a deductible interest. Correspondingly, if the income interest of the spouse satisfying the requirements extends to only one-fourth of the property interest and a testamentary power of appointment satisfying the requirements extends to all of the property interest, then only one-fourth of the interest in the spouse qualifies as a deductible interest. Further, if the surviving spouse has no right to income from a specific portion of a property interest but a testamentary power of appointment which meets the necessary conditions over the entire interest, then none of the interest qualifies for the deduction. In addition, if, from the time of the decedent's death, the surviving spouse has a power of appointment meeting all of the required conditions over three-fourths of the entire property interest and the prescribed income rights over the entire interest, but with a power in another person to appoint one-half of the entire interest, the value of the interest in the surviving spouse over only one-half of the property interest will qualify as a deductible interest.

(3) *Definition of "specific portion."* A partial interest in property is not treated as a specific portion of the entire interest unless the rights of the surviving spouse in income and as to the power constitute a fractional or percentile share of a property interest so that such interest or share in the surviving spouse reflects its proportionate share of the increment or decline in the whole of the property interest to which the income rights and the power relate. Thus, if the right of the spouse to income and the power extend to one-half or a specified percentage of the property, or the equivalent, the interest is considered as a specific portion. On the other hand, if the annual income of the spouse is limited to a specific sum, or if she has a power to appoint only a specific sum out of a larger fund, the interest is not a deductible interest. Even though the rights in the surviving spouse may not be expressed in terms of a definite fraction or percentage, a deduction may be allowable if it is shown that the effect of local law is to give the spouse rights which are identical to those she would have acquired if the size of the share had been expressed in terms of a definite fraction or percentage. The following examples illustrate the application of this and the preceding subparagraphs of this paragraph:

Example (1). The decedent transferred to a trustee 500 identical shares of X Company stock. He provided that during the lifetime of the surviving spouse the trustee should pay her annually one-half of the trust income or \$6,000, whichever is the larger. The spouse was also given a general power of appointment, exercisable by her last will over the sum of \$160,000 or over three-fourths of the trust corpus, whichever should be of larger value. Since there is no certainty that

the trust income will not vary from year to year, for purposes of subparagraphs (1) and (2) of this paragraph, an annual payment of a specified sum, such as the \$6,000 provided for in this case, is not considered as representing the income from a definite fraction or a specific portion of the entire interest if that were the extent of the spouse's interest. However, since the spouse is to receive annually at least one-half of the trust income, she will, for purposes of subparagraphs (1) and (2) of this paragraph, be considered as receiving all of the income from one-half of the entire interest in the stock. Inasmuch as there is no certainty that the value of the stock will be the same on the date of the surviving spouse's death as it was on the date of the decedent's death, for purposes of subparagraphs (1) and (2) of this paragraph, a specified sum, such as the \$160,000 provided for in this case, is not considered to be a definite fraction of the entire interest. However, since the surviving spouse has a general power of appointment over at least three-fourths of the trust corpus, she is considered as having a general power of appointment over three-fourths of the entire interest in the stock.

Example (2). The decedent bequeathed to a trustee an office building and 250 identical shares of Y Company stock. He provided that during the lifetime of the surviving spouse the trustee should pay her annually three-fourths of the trust income. The spouse was given a general power of appointment, exercisable by will, over the office building and 100 shares of the stock. By the terms of the decedent's will the spouse is given all the income from a definite fraction of the entire interest in the office building and in the stock. She also has a general power of appointment over the entire interest in the office building. However, since the amount of property represented by a single share of stock would be altered if the corporation split its stock, issued stock dividends, made a distribution of capital, etc., a power to appoint 100 shares at the time of the surviving spouse's death is not the same necessarily as a power to appoint 100/250 of the entire interest which the 250 shares represented on the date of the decedent's death. If it is shown in this case that the effect of local law is to give the spouse a general power to appoint not only the 100 shares designated by the decedent but also 100/250 of any shares or amounts which are distributed by the corporation and included in the corpus, the requirements of this subparagraph will be satisfied and the surviving spouse will be considered as having a general power to appoint 100/250 of the entire interest in the 250 shares.

(4) *Definition of "entire interest."* Since a marital deduction is allowed for each qualifying separate interest in property passing from the decedent to his surviving spouse (subject to the percentage limitation contained in § 8147d concerning the aggregate amount of the deductions), for purposes of subparagraphs (1) and (2) of this paragraph, each property interest with respect to which the surviving spouse received some rights is considered separately in determining whether her rights extend to the entire interest or to a specific portion of the entire interest. A property interest which consists of several identical units of property (such as a block of 250 shares of stock, whether the ownership is evidenced by one or several certificates) is considered one property interest, unless certain of the units are to be segregated and accorded different treatment, in which case each segregated group of items is considered a separate property

interest. The bequest of a specified sum of money constitutes the bequest of a separate property interest if immediately following distribution by the executor and thenceforth it, and the investments made with it, must be so segregated or accounted for as to permit its identification as a separate item of property. The application of this subparagraph may be illustrated by the following examples:

Example (1). The decedent transferred to a trustee three adjoining farms, Blackacre, Whiteacre, and Greenacre. His will provided that during the lifetime of the surviving spouse the trustee should pay her all of the income from the trust. Upon her death, all of Blackacre, a one-half interest in Whiteacre, and a one-third interest in Greenacre were to be distributed to the person or persons appointed by her in her will. The surviving spouse is considered as being entitled to all of the income from the entire interest in Blackacre, all of the income from the entire interest in Whiteacre, and all of the income from the entire interest in Greenacre. She also is considered as having a power of appointment over the entire interest in Blackacre, over one-half of the entire interest in Whiteacre, and over one-third of the entire interest in Greenacre.

Example (2). The decedent bequeathed \$250,000 to C, as trustee. C is to invest the money and pay all of the income from the investments to W, the decedent's surviving spouse, annually. W was given a general power, exercisable by will, to appoint one-half of the corpus of the trust. Here, immediately following distribution by the executor, the \$250,000 will be sufficiently segregated to permit its identification as a separate item, and the \$250,000 will constitute an entire property interest. Therefore, W has a right to income and a power of appointment such that one-half of the entire interest is a deductible interest.

Example (3). The decedent bequeathed 100 shares of Z Corporation stock to D, as trustee. W, the decedent's surviving spouse, is to receive all of the income of the trust annually and is given a general power, exercisable by will, to appoint out of the trust corpus the sum of \$25,000. In this case the \$25,000 is not, immediately following distribution, sufficiently segregated to permit its identification as a separate item of property in which the surviving spouse has the entire interest. Therefore, the \$25,000 does not constitute the entire interest in a property for the purpose of subparagraphs (1) and (2) of this paragraph.

(5) *Application of local law.* In determining whether or not the conditions set forth in subparagraph (1) (i) through (v) of this section are satisfied by the instrument of transfer, regard is to be had to the applicable provisions of the law of the jurisdiction under which the interest passes and, if the transfer is in trust, the applicable provisions of the law governing the administration of the trust. For example, silence of a trust instrument as to the frequency of payment will not be regarded as a failure to satisfy the condition set forth in subparagraph (1) (ii) of this paragraph that income must be payable to the surviving spouse annually or more frequently unless the applicable law permits payment to be made less frequently than annually. The principles outlined in this subparagraph and subparagraphs (6) and (7) of this paragraph which are applied in determining whether transfers in trust meet such conditions are equally applicable in as-

certaining whether, in the case of interests not in trust, the surviving spouse has the equivalent in rights over income and over the property.

(6) *Right to income.* (i) If an interest is transferred in trust, the surviving spouse is "entitled for life to all of the income from the entire interest or a specific portion of the entire interest", for the purpose of the condition set forth in subparagraph (1) (i) of this paragraph, if the effect of the trust is to give her substantially that degree of beneficial enjoyment of the trust property during her life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust. Such degree of enjoyment is given only if it was the decedent's intention, as manifested by the terms of the trust instrument and the surrounding circumstances, that the trust should produce for the surviving spouse during her life such an income, or that the spouse should have such use of the trust property as is consistent with the value of the trust corpus and with its preservation. The designation of the spouse as sole income beneficiary for life of the entire interest or a specific portion of the entire interest will be sufficient to qualify the trust unless the terms of the trust and the surrounding circumstances considered as a whole evidence an intention to deprive the spouse of the requisite degree of enjoyment. In determining whether a trust evidences that intention, the treatment required or permitted with respect to individual items must be considered in relation to the entire system provided for the administration of the trust.

(ii) If the over-all effect of a trust is to give to the surviving spouse such enforceable rights as will preserve to her the requisite degree of enjoyment, it is immaterial whether that result is effected by rules specifically stated in the trust instrument, or, in their absence, by the rules for the management of the trust property and the allocation of receipts and expenditures supplied by the State law. For example, a provision in the trust instrument for amortization of bond premium by appropriate periodic charges to interest will not disqualify the interest passing in trust even though there is no State law specifically authorizing amortization, or there is a State law denying amortization which is applicable only in the absence of such a provision in the trust instrument.

(iii) In the case of a trust, the rules to be applied by the trustee in allocation of receipts and expenses between income and corpus must be considered in relation to the nature and expected productivity of the assets passing in trust, the nature and frequency of occurrence of the expected receipts, and any provisions as to change in the form of investments. If it is evident from the nature of the trust assets and the rules provided for management of the trust that the allocation to income of such receipts as rents, ordinary cash dividends, and interest will give to the spouse the substantial enjoyment during life required by the statute, provisions that such receipts as stock dividends and proceeds

from the conversion of trust assets shall be treated as corpus will not disqualify the interest passing in trust. Similarly, provision for a depletion charge against income in the case of trust assets which are subject to depletion will not disqualify the interest passing in trust, unless the effect is to deprive the spouse of the requisite beneficial enjoyment. The same principle is applicable in the case of depreciation, trustees' commissions, and other charges.

(iv) Provisions granting administrative powers to the trustee will not have the effect of disqualifying an interest passing in trust unless the grant of powers evidences the intention to deprive the surviving spouse of the beneficial enjoyment required by the statute. Such an intention will not be considered to exist if the entire terms of the instrument are such that the local courts will impose reasonable limitations upon the exercise of the powers. Among the powers which if subject to reasonable limitations will not disqualify the interest passing in trust are the power to determine the allocation or apportionment of receipts and disbursements between income and corpus, the power to apply the income or corpus for the benefit of the spouse, and the power to retain the assets passing to the trust. For example, a power to retain trust assets which consist substantially of unproductive property will not disqualify the interest if the applicable rules for the administration of the trust require, or permit the spouse to require, that the trustee either make the property productive or convert it within a reasonable time. Nor will such a power disqualify the interest if the applicable rules for administration of the trust require the trustee to use the degree of judgment and care in the exercise of the power which a prudent man would use if he were owner of the trust assets. Further, a power to retain a residence or other property for the personal use of the spouse will not disqualify the interest passing in trust.

(v) An interest passing in trust will not satisfy the condition set forth in subparagraph (1) (i) of this paragraph that the surviving spouse be entitled to all the income if the primary purpose of the trust is to safeguard property without providing the spouse with the required beneficial enjoyment. Such trusts include not only trusts which expressly provide for the accumulation of the income but also trusts which indirectly accomplish a similar purpose. For example, assume that the corpus of a trust consists substantially of property which is not likely to be income producing during the life of the surviving spouse and that the spouse cannot compel the trustee to convert or otherwise deal with the property as described in subdivision (iv) of this subparagraph. An interest passing to such a trust will not qualify unless the applicable rules for the administration require, or permit the spouse to require, that the trustee provide the required beneficial enjoyment, such as by payments to the spouse out of other assets of the trust.

(vi) If a trust is created during the decedent's life, it is immaterial whether or not the interest passing in trust satisfied the conditions set forth in subparagraph (1) (i) through (v) of this paragraph prior to the decedent's death. If a trust may be terminated during the life of the surviving spouse, under her exercise of a power of appointment or by distribution of the corpus to her, the interest passing in trust satisfies the condition set forth in subparagraph (1) (i) of this paragraph (that the spouse be entitled to all the income) if she (a) is entitled to the income until the trust terminates, or (b) has the right, exercisable in all events, to have the corpus distributed to her at any time during her life.

(vii) An interest passing in trust fails to satisfy the condition set forth in subparagraph (1) (i) of this paragraph, that the spouse be entitled to all the income, to the extent that the income is required to be accumulated in whole or in part or may be accumulated in the discretion of any person other than the surviving spouse; to the extent that the consent of any person other than the surviving spouse is required as a condition precedent to distribution of the income; or to the extent that any person other than the surviving spouse has the power to alter the terms of the trust so as to deprive her of her right to the income. An interest passing in trust will not fail to satisfy the condition that the spouse be entitled to all the income merely because its terms provide that the right of the surviving spouse to the income shall not be subject to assignment, alienation, pledge, attachment or claims of creditors.

(viii) In the case of an interest passing in trust, the terms "entitled for life" and "payable annually or at more frequent intervals", as used in the conditions set forth in subparagraph (1) (i) and (ii) of this paragraph, require that under the terms of the trust the income referred to must be currently (at least annually; see subparagraph (5) of this paragraph) distributable to the spouse or that she must have such command over the income that it is virtually hers. Thus, the conditions in subparagraph (1) (i) and (ii) of this paragraph are satisfied in this respect if, under the terms of the trust instrument, the spouse has the right exercisable annually (or more frequently) to require distribution to herself of the trust income, and otherwise the trust income is to be accumulated and added to corpus. Similarly, as respects the income for the period between the last distribution date and the date of the spouse's death, it is sufficient if that income is subject to the spouse's power to appoint. Thus, if the trust instrument provides that income accrued or undistributed on the date of the spouse's death is to be disposed of as if it had been received after her death, and if the spouse has a power of appointment over the trust corpus, the power necessarily extends to the undistributed income.

(ix) An interest is not to be regarded as failing to satisfy the conditions set forth in subparagraph (1) (i) and (ii)

of this paragraph (that the spouse be entitled to all the income and that it be payable annually or more frequently) merely because the spouse is not entitled to the income from estate assets for the period before distribution of those assets by the executor, unless the executor is, by the decedent's will, authorized or directed to delay distribution beyond the period reasonably required for administration of the decedent's estate. As to the valuation of the property interest passing to the spouse in trust where the right to income is expressly postponed, see § 81.47c.

(7) *Power of appointment in surviving spouse.* (i) The conditions set forth in subparagraph (1) (iii) and (iv) of this paragraph, that is, that the surviving spouse must have a power of appointment exercisable in favor of herself or her estate and exercisable alone and in all events, are not met unless the power of the surviving spouse to appoint the entire interest or a specific portion of it falls within one of the following categories:

(a) A power so to appoint fully exercisable in her own favor at any time following the decedent's death (as, for example, an unlimited power to invade); or

(b) A power so to appoint exercisable in favor of her estate. Such a power, if exercisable during life, must be fully exercisable at any time during life, or, if exercisable by will, must be fully exercisable irrespective of the time of her death (subject in either case to the provisions of § 81.47b(d), relating to interests conditioned on survival for a limited period); or

(c) A combination of the powers described under (a) and (b) of this subdivision. For example, the surviving spouse may, until she attains the age of 50 years, have a power to appoint to herself and thereafter have a power to appoint to her estate. However, the condition that the spouse's power must be exercisable in all events is not satisfied unless irrespective of when the surviving spouse may die the entire interest or a specific portion of it will at the time of her death be subject to one power or the other (subject to the exception in § 81.47b(d), relating to interests contingent on survival for a limited period).

(ii) The power of the surviving spouse must be a power to appoint the entire interest or a specific portion of it as unqualified owner (and free of the trust if a trust is involved, or free of the joint tenancy if a joint tenancy is involved) or to appoint the entire interest or a specific portion of it as a part of her estate (and free of the trust if a trust is involved), that is, in effect, to dispose of it to whomsoever she pleases. Thus, if the decedent devised property to a son and the surviving spouse as joint tenants with right of survivorship and under local law the surviving spouse has a power of severance exercisable without consent of the other joint tenant, and by exercising this power could acquire a one-half interest in the property as a tenant in common, her power of severance will satisfy the condition set

forth in subparagraph (1) (iii) of this paragraph that she have a power of appointment in favor of herself or her estate. However, if the surviving spouse entered into a binding agreement with the decedent to exercise the power only in favor of their issue, that condition is not met. An interest passing in trust will not be regarded as failing to satisfy the condition merely because takers in default of the surviving spouse's exercise of the power are designated by the decedent. The decedent may provide that, in default of exercise of the power, the trust shall continue for an additional period.

(iii) A power is not considered to be a power exercisable by a surviving spouse alone and in all events as required by subparagraph (1) (iv) of this paragraph if the exercise of the power in the surviving spouse to appoint the entire interest or a specific portion of it to herself or to her estate requires the joinder or consent of any other person. The power is not "exercisable in all events", if it can be terminated during the life of the surviving spouse by any event other than her complete exercise or release of it. Further, a power is not "exercisable in all events" if it may be exercised for a limited purpose only. For example, a power which is not exercisable in the event of the spouse's remarriage is not exercisable in all events. Likewise, if there are any restrictions, either by the terms of the instrument or under applicable local law, on the exercise of a power to consume property (whether or not held in trust) for the benefit of the spouse, the power is not exercisable in all events. Thus, if a power of invasion is exercisable only for the spouse's support, or only for her limited use, the power is not exercisable in all events. In order for a power of invasion to be exercisable in all events, the surviving spouse must have the unrestricted power exercisable at any time during her life to use all or any part of the property subject to the power, and to dispose of it in any manner, including the power to dispose of it by gift (whether or not she has power to dispose of it by will).

(iv) The power in the surviving spouse is exercisable in all events only if it exists immediately following the decedent's death. For example, if the power given to the surviving spouse is exercisable during life, but cannot be effectively exercised before distribution of the assets by the executor, the power is not exercisable in all events. Similarly, if the power is exercisable by will, but cannot be effectively exercised in the event the surviving spouse dies before distribution of the assets by the executor, the power is not exercisable in all events. However, an interest will not be disqualified by the mere fact that, in the event the power is exercised during administration of the estate, distribution of the property to the appointee will be delayed for the period of administration. If the power is in existence at all times following the decedent's death, limitations of a formal nature will not disqualify an interest. Examples of formal limitations on a power exercisable during life are requirements that an exercise must be in

a particular form, that it must be filed with a trustee during the spouse's life, that reasonable notice must be given, or that reasonable intervals must elapse between successive partial exercises. Examples of formal limitations on a power exercisable by will are that it must be exercised by a will executed by the surviving spouse after the decedent's death or that exercise must be by specific reference to the power.

(v) If the surviving spouse has the requisite power to appoint to herself or her estate, it is immaterial that she also has one or more lesser powers. Thus, if she has a testamentary power to appoint to her estate, she may also have a limited power of withdrawal or of appointment during her life. Similarly, if she has an unlimited power of withdrawal, she may have a limited testamentary power.

(8) *Requirement of survival for a limited period.* A power of appointment in the surviving spouse will not be treated as failing to meet the requirements of subparagraph (1) (iii) of this paragraph even though the power may terminate, if the only conditions which would cause the termination are those described in section 812(e) (1) (D), and if those conditions do not in fact occur. Thus, the entire interest or a specific portion of it will not be disqualified by reason of the fact that the exercise of the power in the spouse is subject to a condition of survivorship described in section 812(e) (1) (D) if the terms of the condition, that is, the survivorship of the surviving spouse, or the failure to die in a common disaster, are fulfilled. See paragraph (d) of § 81.47b.

(9) *Existence of a power in another.* Subparagraph (1) (v) of this paragraph provides that a transfer described in subparagraph (1) is nondeductible to the extent that the decedent created a power in the trustee or in any other person to appoint a part of the interest to any person other than the surviving spouse. However, only powers in other persons which are in opposition to that of the surviving spouse will cause a portion of the interest to fail to satisfy the condition set forth in subparagraph (1) (v) of this paragraph. Thus, a power in a trustee to distribute corpus to or for the benefit of a surviving spouse will not disqualify the trust. Similarly, a power to distribute corpus to the spouse for the support of minor children will not disqualify the trust if she is legally obligated to support such children. The application of this subparagraph may be illustrated by the following examples:

Example (1). Assume that a decedent created a trust, designating his surviving spouse as income beneficiary for life with an unrestricted power in the spouse to appoint the corpus during her life. The decedent further provided that in the event the surviving spouse should die without having exercised the power, the trust should continue for the life of his son with a power in the son to appoint the corpus. Since the power in the son could become exercisable only after the death of the surviving spouse, the interest is not regarded as failing to satisfy the condition set forth in subparagraph (1) (v) of this paragraph.

Example (2). Assume that the decedent created a trust, designating his surviving spouse as income beneficiary for life and as donee of a power to appoint by will the entire corpus. The decedent further provided that the trustee could distribute 30 percent of the corpus to the decedent's son when he reached the age of 35 years. Since the trustee has a power to appoint 30 percent of the entire interest for the benefit of a person other than the surviving spouse, only 70 percent of the interest placed in trust satisfied the condition set forth in subparagraph (1) (v) of this paragraph. If, in this case, the surviving spouse had a power, exercisable by her will, to appoint only one-half of the corpus as it was constituted at the time of her death, it should be noted that only 35 percent of the interest placed in the trust would satisfy the condition set forth in subparagraph (1) (iii) of this paragraph.

(10) *Estates of decedents dying after December 31, 1947, and on or before April 1, 1948.* Except as otherwise provided in paragraph (h) of this section, if the decedent died after December 31, 1947, and on or before April 1, 1948, an interest in property otherwise constituting a deductible interest under the provisions of subparagraphs (1) through (9) of this paragraph will nevertheless constitute a deductible interest only if all of the following requirements are satisfied:

(i) The property must have passed from the decedent in trust;

(ii) The right of the surviving spouse to income must be a right to receive the entire income of the trust; and

(iii) The power of appointment given to the surviving spouse must be a power to appoint the entire corpus free of the trust, with no power in any other person to appoint any part of the corpus to any person other than the surviving spouse.

(11) *Retroactive operation.* Where refund or credit of any overpayment resulting from the application of section 93 of the Technical Amendments Act of 1958 is prevented on September 2, 1958, or at any time within one year from such date, by the operation of any law or rule of law other than section 3760 relating to closing agreements (or the corresponding provisions of the 1954 Code) and other than section 3761 relating to compromises (or the corresponding provisions of the 1954 Code), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed on or before September 2, 1959. No interest shall be allowed or paid on any overpayment resulting from the application of section 93.

(C) By amending the first four sentences in the sixth undesignated paragraph of paragraph (d) (26 CFR (1939) 81.47a(d)(6)) to read as follows: "In determining whether the terms of the contract satisfy conditions (3), (4), and (5), the principles provided in paragraph (c) of this section with respect to decedents dying after December 31, 1947, and on or before April 1, 1948, are applicable. See paragraph (c) (10) of this section. As stated in such paragraph (c), the surviving spouse's power to appoint is 'exercisable in all events' only if it is in existence immediately following the decedent's death subject, however, to the

operation of section 812(e) (1) (D). See paragraph (c) (8). For examples of formal limitations on the power which will not disqualify the contract, see paragraph (c) (7) (iv)."

(D) By amending the third sentence of the last undesignated paragraph of paragraph (e) (26 CFR (1939) 81.47a(e)(2)) to read as follows: "Where, as a result of a disclaimer made by a person other than the surviving spouse, a property interest passes from the decedent to his surviving spouse or to a trust and where the conditions set forth in paragraph (c) are met, the rule stated in the preceding sentence applies, not only with respect to the portion of such interest which beneficially vests in the surviving spouse, but also with respect to the portion over which such spouse acquires a power to appoint."

(E) By amending the last sentence of paragraph (h) (1) to read as follows: "The rules prescribed in § 81.47a(c) for determining with respect to decedents dying after December 31, 1947, and on or before April 2, 1948, whether the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, shall be applicable in determining whether interests specified in this paragraph meet conditions (i) and (ii) enumerated above."

§ 81.47b [Amendment]

PAR. 14. Section 81.47b(d), as amended by Treasury Decision 6032, approved August 2, 1954, is further amended—

(A) By amending subdivision (ii) of the sixth undesignated paragraph (26 CFR (1939) 81.47b(d)(6)) to read as follows:

(ii) H devised real property to W for life, and created in W a power, exercisable by will, to appoint the remainder interest to any person. In default of appointment by W, the remainder interest was to go to A and his heirs. Assuming that under the local law W did not take the real property as absolute owner, nor in a manner which meets the requirements of § 81.47a(c), the interest which passed from H to W is a "nondeductible interest" since such interest will terminate upon her death and A (or his heirs or assigns) may thereafter possess or enjoy the property. (As to cases, in general, in which a "deductible interest" may exist where a life interest is coupled with a power to appoint, see paragraphs (c) and (d) of § 81.47a. As to cases in which a "deductible interest" may exist where a life interest is coupled with a power in the case of interests passing by will from decedents dying after December 31, 1947, and on or before April 2, 1948, see paragraph (h) of § 81.47a.)

(B) By amending the second sentence of the ninth undesignated paragraph (26 CFR (1939) 81.47b(d)(9)) to read as follows: "Where such condition (unless it relates to death as the result of a common disaster or is a condition to which the next sentence applies) is one which may occur either within such 6-month period or thereafter, the exception provided under section 812(e) (1) (D) will not apply. However, with respect to decedents dying after April 2, 1948, if the decedent was adjudged incompetent before that date in conformity with applicable local law, if he was

not restored to competency before his death, and if the only condition which will cause the interest taken by the surviving spouse to terminate (regardless of whether the condition may occur within the 6-month period or thereafter) does in fact within the 6-month period become impossible of occurrence, the exception provided under section 812(e) (1) (D) will, nevertheless, apply."

§ 81.52 [Amendment]

PAR. 15. The first sentence of the first undesignated paragraph of § 81.52 (26 CFR (1939) 81.52(a)) is amended to read as follows: "In estates of nonresidents not citizens, deductions from the gross estate may be taken, subject to the limitations set forth in §§ 81.29 to 81.40, inclusive, and to the limitations hereinafter stated, for the following: Funeral expenses; administration expenses; claims against the estate; unpaid mortgages; losses incurred during the settlement of the estate arising from fires, storms, shipwrecks, or other casualties, or from theft, if such losses are not compensated for by insurance or otherwise; certain State death taxes deductible under sections 2 and 4 of Public Law 414 (84th Cong.), approved February 20, 1956 (see § 81.37a); and amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent."

PAR. 16. There is inserted immediately preceding § 81.73 the following:

SEC. 89. USE OF CERTIFIED MAIL [TECHNICAL AMENDMENTS ACT OF 1958, APPROVED SEPTEMBER 2, 1958].

(c) *Provisions of Internal Revenue Code of 1939.* In applying any provision of the Internal Revenue Code of 1939 which requires, or provides for, the use of registered mail the reference to registered mail shall be treated as including a reference to certified mail.

(d) *Effective date.* This section shall apply only if the mailing occurs after the date of the enactment of this Act.

§ 81.73 [Amendment]

PAR. 17. Section 81.73, as amended by Treasury Decision 5596, approved December 22, 1947, is further amended by adding a new paragraph (f), as follows:

(f) Pursuant to section 89 of the Technical Amendments Act of 1958 (72 Stat. 1665), any reference in this section or in section 871(a) to the use of registered mail or registered letter shall be treated as including a reference to the use, after September 2, 1958, of certified mail or certified letter.

§ 81.74 [Amendment]

PAR. 18. Section 81.74, as amended by Treasury Decision 6126, is further amended by adding a new paragraph (g), as follows:

(g) Pursuant to section 89 of the Technical Amendments Act of 1958 (72 Stat. 1665), any reference in section 871(a) to the use of registered mail shall be treated as including a reference to the use, after September 2, 1958, of certified mail.

PAR. 19. There is inserted immediately preceding § 81.79 the following:

SEC. 66. ESTATE TAX IN CASE OF REVERSIONARY OR REMAINDER INTEREST IN PROPERTY [TECHNICAL AMENDMENTS ACT OF 1958, APPROVED SEPTEMBER 2, 1958].

(a) *Credit for death taxes.*

(2) *Credit under 1939 Code.* Section 927 of the Internal Revenue Code of 1939 (relating to credit for death taxes) is amended by striking out "60 days after the termination of the precedent interest or interests in the property" and inserting in lieu thereof "the time for payment of the tax imposed by this subchapter as postponed and extended under section 925".

(3) *Effective date.* The amendments made by paragraphs (1) and (2) shall apply in the case of any reversionary or remainder interest in property only if the precedent interest or interests in the property did not terminate before the beginning of the 60-day period which ends on the date of the enactment of this Act.

(b) *Extension of payment of estate tax attributable to future interests.*

(2) *Extension under 1939 Code—*

(A) Section 925 of the Internal Revenue Code of 1939 (relating to period of extension of time for paying estate tax attributable to future interests) is amended by adding at the end thereof the following: "If the Secretary or his delegate finds that the payment of the tax at the expiration of the period of postponement provided for in the preceding sentence would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 2 years from the expiration of such period of postponement."

(B) Section 926 of the Internal Revenue Code of 1939 (relating to requirements for postponement) is amended by striking out "interest or interests" and inserting in lieu thereof "interest or interests (or, in the case of an extension under section 925, within the period of such extension)".

(3) *Effective date.* The amendments made by paragraphs (1) and (2) shall apply in the case of any reversionary or remainder interest only if the precedent interest or interests in the property did not terminate before the beginning of the 6-month period which ends on the date of the enactment of this Act.

§ 81.79 [Amendment]

PAR. 20. Section 81.79, as amended by Treasury Decision 6034, is further amended as follows:

(A) By amending the second sentence of the first undesignated paragraph (26 CFR (1939) 81.79(b)(1)) of paragraph (b) to read as follows: "In addition, where the precedent interest or interests did not terminate before March 3, 1958, if the district director finds that the payment of the tax at the expiration of the period of postponement described in the preceding sentence would result in undue hardship to the estate, as such term is described in paragraph (a) of this section, he may, under conditions the same as those under which extensions of time for payment of tax are granted by the Commissioner under paragraph (a) of this section, extend the time for payment for a reasonable period or periods not to exceed in all 2 years from the expiration of the period of postponement. The provisions of this paragraph are limited to cases in which the reversionary or remainder interest is included in the decedent's gross estate as such and do not

extend to cases in which the decedent creates future estates by his own testamentary act."

(B) By amending the first sentence of the third undesignated paragraph (26 CFR (1939) 81.79(b)(3)) of paragraph (b) to read as follows: "As a prerequisite to the postponement or extension of the payment of the tax attributable to a reversionary or remainder interest, a bond must be furnished in such an amount (at least double the amount of the tax and interest for the estimated duration of the precedent interest in the case of a postponement), and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the tax and interest accrued thereon within six months after the termination of the precedent interest in the case of postponements and within the period of the extension in the case of extensions."

(C) By amending the fifth undesignated paragraph (26 CFR (1939) 81.79(b)(5)) of paragraph (b) to read as follows:

If the time for payment of Federal estate tax attributable to a reversionary or remainder interest in property is postponed or extended under this paragraph, all estate, inheritance, legacy, or succession taxes allowable as a credit under the provisions of sections 813 (b) or (c), or 936(c), which are paid and for which credit is claimed within the period provided in such sections will be allowed (not to exceed the limitations in such sections) and the allowance will be applied first to the respective portions of the Federal tax attributable to the same interests in property to which the estate, inheritance, legacy, or succession taxes are attributable. Estate, inheritance, legacy, or succession taxes, as described in section 813 (b) or (c), or under section 936(c), which are attributable to the reversionary or remainder interest and which are paid and for which credit is claimed after the expiration of the period provided in those sections will also be allowed as a credit against the Federal tax attributable to such interest (not to exceed the limitations in such sections) if such taxes are paid and credit therefor is claimed prior to the expiration of 60 days after the termination of the preceding interest or interests in the property or, if the preceding interest or interests did not terminate before July 5, 1958, within the time for payment of the tax as postponed and extended under section 925.

§ 81.81 [Amendment]

PAR. 21. Section 81.81 is amended—

(A) By amending the first sentence of paragraph (b) to read as follows: "If the time for the payment of the tax attributable to a reversionary or remainder interest is postponed or extended in accordance with the provisions of section 925, the amount the payment of which is so postponed or extended will bear interest at the rate of 4 percent per annum from the expiration of 18 months after the date of the decedent's death until such amount is paid."

(B) By adding at the end of paragraph (b) the following new sentence: "If the

time for payment of an amount of tax is also extended in accordance with the provisions of section 925, the portion of such amount of tax, together with interest accrued thereon, which is not paid in full on or before the date of the expiration of the period of the extension bears interest at the rate of 6 percent per annum from the date of the expiration of the period of the extension until paid."

[F.R. Doc. 60-10969; Filed, Nov. 23, 1960; 8:54 a.m.]

[26 CFR (1954) Part 20]

ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A. Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to conform the Estate Tax Regulations (26 CFR Part 20) to sections 23(e), 30(d), 65(a), 66(a)(1), 66(b)(1), 67, 77, 102(a), and 102(c) of the Technical Amendments Act of 1958 (72 Stat. 1606); to section 22(a) of the Alaska Omnibus Act (73 Stat. 146); to section 18(b) of the Hawaii Omnibus Act (74 Stat. 411); and to sections 4(b) and 4(c) of Public Law 86-779, such regulations are amended as follows:

PARAGRAPH 1. Paragraphs (a) and (b) of § 20.0-1 are amended to read as follows:

§ 20.0-1 Introduction.

(a) *In general.* (1) The regulations in this part (Part 20, Subchapter B, Chapter I, Title 26, Code of Federal Regulations) are designated "Estate Tax Regulations". These regulations pertain to (i) the Federal estate tax imposed by chapter 11 of subtitle B of the Internal Revenue Code on the transfer of estates of decedents dying after August 16, 1954, and (ii) certain related administrative

provisions of subtitle F of the Code. It should be noted that the application of many of the provisions of these regulations may be affected by the provisions of an applicable death tax convention with a foreign country. Unless otherwise indicated, references in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. Unless otherwise provided, the Estate Tax Regulations are applicable to the estates of decedents dying after August 16, 1954, and supersede the regulations contained in Part 81, Subchapter B, Chapter I, Title 26, Code of Federal Regulations (1939) (Regulations 105, Estate Tax), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954).

(2) Section 2208 makes the provisions of chapter 11 of the Code apply to the transfer of the estates of certain decedents dying after September 2, 1958, who were citizens of the United States and residents of a possession thereof at the time of death. Section 2209 makes the provisions of chapter 11 apply to the transfer of the estates of certain other decedents dying after September 14, 1960, who were citizens of the United States and residents of a possession thereof at the time of death. See §§ 20.2208-1 and 20.2209-1. Except as otherwise provided in §§ 20.2208-1 and 20.2209-1, the provisions of these regulations do not apply to the estates of such decedents.

(b) *Scope of regulations.*—(1) *Estates of citizens or residents.* Subchapter A of chapter 11 of the Code pertains to the taxation of the estate of a person who was a citizen or a resident of the United States at the time of his death. The term "resident" means a decedent who, at the time of his death, had his domicile in the United States. The term "United States", as used in the Estate Tax Regulations, includes only the States and the District of Columbia. The term also includes the Territories of Alaska and Hawaii prior to their admission as States. See section 7701(a)(9). A person acquires a domicile in a place by living there, for even a brief period of time, with no definite present intention of later removing therefrom. Residence without the requisite intention to remain indefinitely will not suffice to constitute domicile, nor will intention to change domicile effect such a change unless accompanied by actual removal. For meaning of the term "citizen of the United States" as applied in a case where the decedent was a resident of a possession of the United States, see § 20.2208-1. The regulations pursuant to subchapter A are set forth in §§ 20.2001-1 to 20.2056(e)-3.

(3) *Miscellaneous substantive provisions.* Subchapter C of chapter 11 of the Code contains a number of miscellaneous substantive provisions. The

regulations pursuant to subchapter C are set forth in §§ 20.2201-1 to 20.2209-1.

PAR. 2. Section 20.2011 is amended by revising section 2011 (a) and (c) and the historical note to read as follows:

§ 20.2011 Statutory provisions; credit for State death taxes.

SEC. 2011. *Credit for State death taxes.*—(a) *In general.* The tax imposed by section 2001 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent).

(c) *Period of limitations on credit.* The credit allowed by this section shall include only such taxes as were actually paid and credit therefor claimed within 4 years after the filing of the return required by section 6018, except that—

(1) If a petition for redetermination of a deficiency has been filed with the Tax Court within the time prescribed in section 6213(a), then within such 4-year period or before the expiration of 60 days after the decision of the Tax Court becomes final.

(2) If, under section 6161, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such 4-year period or before the date of the expiration of the period of the extension.

(3) If a claim for refund or credit of an overpayment of tax imposed by this chapter has been filed within the time prescribed in section 6511, then within such 4-year period or before the expiration of 60 days from the date of mailing by certified mail or registered mail by the Secretary or his delegate to the taxpayer of a notice of the disallowance of any part of such claim, or before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon such claim, whichever is later.

Refund based on the credit may (despite the provisions of section 6511 and 6512) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest.

[Sec. 2011 as amended by sec. 3, Act of Feb. 20, 1956 (Pub. Law 414, 84th Cong., 70 Stat. 24); secs. 65(a) and 102(c)(1), Technical Amendments Act 1958 (72 Stat. 1657, 1674)]

PAR. 3. Paragraphs (a) and (c)(1) of § 20.2011-1 are amended to read as follows:

§ 20.2011-1 Credit for State death taxes.

(a) *In general.* A credit is allowed under section 2011 against the Federal estate tax for estate, inheritance, legacy or succession taxes actually paid to any State, Territory, or the District of Columbia, or in the case of decedents dying before September 3, 1958, any possession of the United States (hereafter referred to as "State death taxes"). The credit, however, is allowed only for State death taxes paid (1) with respect to property included in the decedent's gross estate, and (2) with respect to the decedent's estate. The amount of the credit is subject to the limitation described in paragraph (b) of this section. It is subject to further limitations described in § 20.2011-2 if a deduction is allowed under section 2053(d) for State death taxes

paid with respect to a charitable gift. See paragraph (a) of § 20.2014-1 as to the allowance of a credit for death taxes paid to a possession of the United States in a case where the decedent died after September 2, 1958.

(c) *Miscellaneous limitations and conditions to credit*—(1) *Period of limitations*. The credit for State death taxes is limited under section 2011(c) to those taxes which were actually paid and for which a credit was claimed within four years after the filing of the estate tax return for the decedent's estate. If, however, a petition has been filed with the Tax Court of the United States for the redetermination of a deficiency within the time prescribed in section 6213(a), the credit is limited to those taxes which were actually paid and for which a credit was claimed within four years after the filing of the return or within 60 days after the decision of the Tax Court becomes final, whichever period is the last to expire. Similarly, if an extension of time has been granted under section 6161 for payment of the tax shown on the return, or of a deficiency, the credit is limited to those taxes which were actually paid and for which a credit was claimed within four years after the filing of the return, or before the date of the expiration of the period of the extension, whichever period is last to expire. If a claim for refund or credit of an overpayment of the Federal estate tax is filed within the time prescribed in section 6511, the credit for State death taxes is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the expiration of 60 days from the date of mailing by certified or registered mail by the district director to the taxpayer of a notice of disallowance of any part of the claim, or before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon the claim, whichever period is the last to expire. See section 2015 for the applicable period of limitations for credit for State death taxes on reversionary or remainder interests if an election is made under section 6163(a) to postpone payment of the estate tax attributable to reversionary or remainder interests. If a claim for refund based on the credit for State death taxes is filed within the applicable period described in this subparagraph, a refund may be made despite the general limitation provisions of sections 6511 and 6512. Any refund based on the credit described in this section shall be made without interest.

PAR. 4. Section 20.2014 is amended by adding at the end of section 2014 new subsection (f) and a historical note to read as follows:

§ 20.2014 Statutory provisions; credit for foreign death taxes.

SEC. 2014. *Credit for foreign death taxes* * * *

(f) *Possession of United States deemed a foreign country*. For purposes of the credits authorized by this section, each possession

of the United States shall be deemed to be a foreign country.

[Sec. 2014 as amended by sec. 102(c)(2), Technical Amendments Act 1958 (72 Stat. 1674)]

PAR. 5. Paragraph (a) (1) of § 20.2014-1 is amended to read as follows:

§ 20.2014-1 Credit for foreign death taxes.

(a) *In general*. (1) A credit is allowed under section 2014 against the Federal estate tax for any estate, inheritance, legacy, or succession taxes actually paid to any foreign country (hereinafter referred to as "foreign death taxes"). The credit is allowed only for foreign death taxes paid (i) with respect to property situated within the country to which the tax is paid, (ii) with respect to property included in the decedent's gross estate, and (iii) with respect to the decedent's estate. The credit is allowable to the estate of a decedent who was a citizen of the United States at the time of his death. The credit is also allowable to the estate of a decedent who was a resident but not a citizen of the United States at the time of his death if the country of which the decedent was a national, in imposing death taxes, allows a similar credit to the estates of citizens of the United States resident in that country. See paragraph (b) (1) of § 20.0-1 for definition of the term "resident". The credit is not allowable to the estate of a decedent who was neither a citizen nor a resident of the United States at the time of his death. The credit is allowable not only for death taxes paid to foreign countries which are states in the international sense, but also for death taxes paid to possessions or political subdivisions of foreign states. With respect to the estate of a decedent dying after September 2, 1958, the term "foreign country", as used in this section and §§ 20.2014-2 to 20.2014-6, includes a possession of the United States. See §§ 20.2011-1 and 20.2011-2 for the allowance of a credit for death taxes paid to a possession of the United States in the case of a decedent dying before September 3, 1958. No credit is allowable for interest or penalties paid in connection with foreign death taxes.

PAR. 6. Section 20.2015 is amended and a historical note added to read as follows:

§ 20.2015 Statutory provisions; credit for death taxes on remainders.

SEC. 2015. *Credit for death taxes on remainders*. Where an election is made under section 6163(a) to postpone payment of the tax imposed by section 2001 or 2101, such part of any estate, inheritance, legacy, or succession taxes allowable as a credit under section 2011 or 2014, as is attributable to a reversionary or remainder interest may be allowed as a credit against the tax attributable to such interest, subject to the limitations on the amount of the credit contained in such sections, if such part is paid, and credit therefor claimed, at any time before the expiration of the time for payment of the tax imposed by section 2001 or 2101 as postponed and extended under section 6163.

[Sec. 2015 as amended by sec. 66(a)(1), Technical Amendments Act 1958 (72 Stat. 1657)]

PAR. 7. Paragraph (a) and examples (1) and (2) of paragraph (c) of § 20.2015-1 are amended to read as follows:

§ 20.2015-1 Credit for death taxes on remainders.

(a) * * *

(2) Within the time for payment of the tax imposed by section 2001 or 2101 as postponed under section 6163(a) and as extended under section 6163(b) (on account of undue hardship) or, if the precedent interest terminated before July 5, 1958, within 60 days after the termination of the preceding interest or interests in the property.

The allowance of credit, however, is subject to the other limitations contained in sections 2011 and 2014.

(c) * * *

Example (1). One-third of the Federal estate tax was attributable to a remainder interest in real property located in State Y, and two-thirds of the Federal estate tax was attributable to other property located in State X. The payment of the tax attributable to the remainder interest was postponed under the provisions of section 6163(a). The maximum credit allowable for State death taxes under the provisions of section 2011 is \$12,000. Therefore, of the maximum credit allowable, \$4,000 is attributable to the remainder interest and \$8,000 is attributable to the other property. Within the 4-year period provided for in section 2011, inheritance tax in the amount of \$9,000 was paid to State X in connection with the other property. With respect to this \$9,000, \$8,000 (the maximum amount allowable) is allowed as a credit against the Federal estate tax attributable to the other property, and \$1,000 is allowed as a credit against the postponed tax. The life estate or other precedent interest expired after July 4, 1958. After the expiration of the 4-year period but before the expiration of the period of postponement elected under section 6163(a) and of the period of extension granted under section 6163(b) for payment of the tax, inheritance tax in the amount of \$5,000 was paid to State Y in connection with the remainder interest. As the maximum credit allowable with respect to the remainder interest is \$4,000 and \$1,000 has already been allowed as a credit, an additional \$3,000 will be credited against the Federal estate tax attributable to the remainder interest. It should be noted that if the life estate or other precedent interest had expired after the expiration of the 4-year period but before July 5, 1958, the same result would be reached only if the inheritance tax had been paid to State Y before the expiration of 60 days after the termination of the life estate or other precedent interest.

Example (2). The facts are the same as in example (1), except that within the 4-year period inheritance tax in the amount of \$2,500 was paid to State Y with respect to the remainder interest and inheritance tax in the amount of \$7,500 was paid to State X with respect to the other property. The amount of \$8,000 is allowed as a credit against the Federal estate tax attributable to the other property and the amount of \$2,000 is allowed as a credit against the postponed tax. The life estate or other precedent interest expired after July 4, 1958. After the expiration of the 4-year period but before the expiration of the period of postponement elected under section 6163(a) and of the period of extension granted under section 6163(b) for payment of the tax, inheritance tax in the amount of \$5,000 was paid to State Y in connection with the remainder interest.

As the maximum credit allowable with respect to the remainder interest is \$4,000 and \$2,000 already has been allowed as a credit, an additional \$2,000 will be credited against the Federal estate tax attributable to the remainder interest. It should be noted that if the life estate or other precedent interest had expired after the expiration of the 4-year period but before July 5, 1958, the same result would be reached only if the inheritance tax had been paid to State Y before the expiration of 60 days after the termination of the life estate or other precedent interest.

PAR. 8. Section 20.2039 is amended by revising section 2039(c) and adding a historical note to read as follows:

§ 20.2039 Statutory provisions; annuities.

SEC. 2039. Annuities. * * *

(c) *Exemption of annuities under certain trusts and plans.* Notwithstanding the provisions of this section or of any provision of law, there shall be excluded from the gross estate the value of an annuity or other payment receivable by any beneficiary (other than the executor) under—

(1) An employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan which, at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a);

(2) A retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a) (3), (4), (5), and (6); or

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 503(b) (1), (2), or (3), and which is exempt from tax under section 501(a).

If such amounts payable after the death of the decedent under a plan described in paragraph (1) or (2) or under a contract described in paragraph (3) are attributable to any extent to payments or contributions made by the decedent, no exclusion shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of this subsection, contributions or payments made by the decedent's employer or former employer under a trust or plan described in paragraph (1) or (2) shall not be considered to be contributed by the decedent, and contributions or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in paragraph (3) shall, to the extent excludable from gross income under section 403(b), not be considered to be contributed by the decedent. This subsection shall apply to all decedents dying after December 31, 1953.

[Sec. 2039(c) as amended by secs. 23(e), 67(a), Technical Amendments Act 1958 (72 Stat. 1622, 1658)]

PAR. 9. Paragraphs (a), (b), and (c) of § 20.2039-2 are amended as follows:

§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.

(a) *In general.* Section 2039(c) excludes from a decedent's gross estate the value of an annuity or other payment receivable under certain "qualified plans" and under certain annuity contracts to the extent provided in paragraph (c) of

this section. Section 2039(c), other than paragraph (3) thereof, applies to estates of all persons dying after December 31, 1953.

(b) *Plans and annuity contracts to which section 2039(c) applies.* Section 2039(c) excludes from a decedent's gross estate, to the extent provided in paragraph (c) of this section, the value of an annuity or other payment receivable by any beneficiary (except the value of an annuity or other payment receivable by or for the benefit of the decedent's estate) under—

(1) An employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan which, at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of the earlier termination of the plan, met the requirements of section 401(a);

(2) A retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of the earlier termination of the plan, met the requirements of section 401(a) (3) through (6); or

(3) In the case of a decedent dying after December 31, 1957, a retirement annuity contract purchased for an employee by an employer which, for its taxable year in which the purchase occurred, is an organization referred to in section 503(b) (1), (2), or (3), and is exempt from tax under section 501(a).

For the meaning of the term "annuity or other payment", see paragraph (b) of § 20.2039-1. For the meaning of the phrase "receivable by or for the benefit of the decedent's estate", see paragraph (b) of § 20.2042-1. The application of this paragraph may be illustrated by the following examples in each of which it is assumed that the amount stated to be excludable from the decedent's gross estate is determined in accordance with paragraph (c) of this section:

Example (5). An employer purchased a retirement annuity contract for an employee which was to provide the employee, upon his retirement at age 60, with an annuity for life and which was to provide his wife, upon the employee's death after retirement, with a similar annuity for life. The employer, for its taxable year in which the annuity contract was purchased, was an organization referred to in section 503(b) (1), (2), or (3), and was exempt from tax under section 501(a). The entire amount of the purchase price of the annuity contract was excluded from the employee's gross income under section 403(b). No part of the value of the survivor annuity payable after the employee's death is includible in the decedent's gross estate by reason of the provisions of section 2039(c).

(c) *Amount excludable from the gross estate.* (1) The amount to be excluded from a decedent's gross estate under section 2039(c) is an amount which bears the same ratio to the value at the decedent's death of the annuity or other payment receivable by the beneficiary as the employer's contribution (or a contribution made on his behalf) on the employee's account to the plan or towards

the purchase of the annuity contract bears to the total contributions on the employee's account to the plan or towards the purchase of the annuity contract. In applying the ratio set forth in the preceding sentence, payments or contributions made by the employer (or on its behalf) toward the purchase of an annuity contract described in paragraph (b) (3) of this section shall be considered to include only such payments or contributions as are, or were, excludable from the employee's gross income under section 403(b). In applying this ratio, the value at the decedent's death of the annuity or other payment is determined in accordance with the rules set forth in §§ 20.2031-1, 20.2031-7, 20.2031-8, and 20.2031-9.

(2) In certain cases, the employer's contribution (or a contribution made on his behalf) to a plan on the employee's account and thus the total contributions to the plan on the employee's account cannot be readily ascertained. In order to apply the ratio stated in subparagraph (1) of this paragraph in such a case, the method outlined in the following two sentences must be used unless a more precise method is presented. In such a case, the total contributions to the plan on the employee's account is the value of any annuity or other payment payable to the decedent and his survivor computed as of the time the decedent's rights first mature (or as of the time the survivor's rights first mature if the decedent's rights never mature) and computed in accordance with the rules set forth in §§ 20.2031-1, 20.2031-7, 20.2031-8, and 20.2031-9. By subtracting from such value the amount of the employee's contribution to the plan, the amount of the employer's contribution to the plan on the employee's account may be obtained. The application of this paragraph may be illustrated by the following example:

Example. Pursuant to a pension plan, the employer and the employee contributed to a trust which was to provide the employee, upon his retirement at age 60, with an annuity for life, and which was to provide his wife, upon the employee's death after retirement, with a similar annuity for life. At the time of the employee's retirement, the pension trust formed part of a plan meeting the requirements of section 401(a). Assume the following: (i) That the employer's contributions to the fund were not credited to the accounts of individual employees; (ii) That the value of the employee's annuity and his wife's annuity, computed as of the time of the decedent's retirement, was \$40,000; (iii) That the employee contributed \$10,000 to the plan; and (iv) That the value at the decedent's death of the wife's annuity was \$16,000. On the basis of these facts, the total contributions to the fund on the employee's account are presumed to be \$40,000 and the employer's contribution to the plan on the employee's account is presumed to be \$30,000 (\$40,000 less \$10,000). Since the wife's annuity was receivable under a qualified pension plan, that part of the value of such annuity which is attributable to the employer's contributions $\left(\frac{\$30,000}{\$40,000} \times \$16,000 \right)$, or \$12,000

is excludable from the decedent's gross estate by reason of the provisions of section 2039(c). Compare this result with the results reached in the examples set forth in paragraph (b)

of this section in which all contributions to the plans were made by the employer.

PAR. 10. Section 20.2053 is amended by revising section 2053(d) (1) and the historical note to read as follows:

§ 20.2053 Statutory provisions; expenses, indebtedness, and taxes.

SEC. 2053. *Expenses, indebtedness, and taxes* * * *

(d) *Certain State death taxes*—(1) *General rule.* Notwithstanding the provisions of subsection (c) (1) (B) of this section, for purposes of the tax imposed by section 2001 the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501, by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary or his delegate) of any estate, succession, legacy or inheritance tax imposed by a State or Territory or the District of Columbia, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055 or 2106(a) (2). The election shall be exercised in accordance with regulations prescribed by the Secretary or his delegate.

[Sec. 2053 as amended by sec. 2, Act of Feb. 20, 1956 (Pub. Law 414, 84th Cong., 70 Stat. 23); sec. 102(c) (3), Technical Amendments Act 1958 (72 Stat. 1674)]

PAR. 11. Paragraph (a) of § 20.2053-9 is amended to read as follows:

§ 20.2053-9 Deduction for certain State death taxes.

(a) *General rule.* A deduction is allowed a decedent's estate under section 2053(d) for the amount of any estate, succession, legacy, or inheritance tax imposed by a State, Territory, or the District of Columbia, or, in the case of a decedent dying before September 3, 1958, a possession of the United States upon a transfer by the decedent for charitable, etc., uses described in section 2055 or 2106(a) (2) (relating to the estates of nonresidents not citizens), but only if (1) the conditions stated in paragraph (b) of this section are met, and (2) an election is made in accordance with the provisions of paragraph (c) of this section. See section 2011(e) and § 20.2011-2 for the effect which the allowance of this deduction has upon the credit for State death taxes.

PAR. 12. Section 20.2055 is amended by revising section 2055(e) and the historical note to read as follows:

§ 20.2055 Statutory provisions; transfers for public, charitable, and religious uses.

SEC. 2055. *Transfers for public, charitable, and religious uses* * * *

(e) *Disallowance of deductions in certain cases.* For disallowance of certain charitable, etc., deductions otherwise allowable under this section, see sections 503 and 681.

[Sec. 2055 as amended by sec. 1, Act of Aug. 6, 1956 (Pub. Law 1011, 84th Cong., 70 Stat. 1075); sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631)]

PAR. 13. Section 20.2106 is amended by revising section 2106 (a) (2) (E) and (a) (3) and adding a historical note to read as follows:

§ 20.2106 Statutory provisions; taxable estate.

SEC. 2106. *Taxable estate*—(a) *Definition of taxable estate.* * * *

(2) *Transfers for public, charitable, and religious uses* * * *

(E) *Disallowance of deductions in certain cases.* For disallowance of certain charitable, etc., deductions otherwise allowable under this paragraph, see sections 503 and 681.

(3) *Exemption*—(A) *General rule.* An exemption of \$2,000.

(B) *Residents of possessions of the United States.* In the case of a decedent who is considered to be a "nonresident not a citizen of the United States" under the provisions of section 2209, the exemption shall be the greater of (i) \$2,000, or (ii) that proportion of the exemption authorized by section 2052 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

[Sec. 2106 as amended by sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 4(c), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1000)]

PAR. 14. Paragraphs (a) (3) and (c) of § 20.2106-1 are amended to read as follows:

§ 20.2106-1 Estates of nonresidents not citizens; taxable estate; deductions in general.

(a) * * *

(3) (i) In the case of a decedent who is considered to be a "nonresident not a citizen of the United States" under the provisions of section 2209, an exemption which is the greater of (a) \$2,000 or (b) that proportion of \$60,000 (the exemption authorized by section 2052) which the value of that part of the decedent's gross estate which is situated in the United States at the time of his death bears to the value of the decedent's entire gross estate wherever situated.

(ii) In the case of every other decedent who was a nonresident not a citizen of the United States at the time of his death, an exemption of \$2,000, unless a death tax convention provides for another amount, such as a prorated exemption similar to that described in subdivision (i) (b) of this subparagraph.

(c) (i) The exemption described in paragraph (a) (3) (i) of this section may be illustrated by the following example:

Example. The decedent, who died on October 1, 1960, is considered to be a nonresident not a citizen of the United States by reason of the provisions of section 2209. He was a resident of the Virgin Islands and his entire gross estate wherever situated included bonds valued at \$45,000, which were situated in the Virgin Islands, and shares of United States corporations valued at \$30,000 (property situated in the United States under section 2104). The amount described in paragraph (a) (3) (i) (b) of this section is \$24,000, computed as follows:

\$30,000 (value of property in United States)
 $\frac{\$75,000 \text{ (value of entire gross estate wherever situated)}}{\$60,000} \times \$60,000 = \$24,000$

Since the amount so computed exceeds \$2,000, the exemption to be allowed the decedent's estate is \$24,000.

(ii) In connection with the provisions of section 2106(c), see paragraph (a) (3) of § 20.2104-1 and paragraph (d) of § 20.2105-1.

PAR. 15. Section 20.2202 is amended and a historical note added to read as follows:

§ 20.2202 Statutory provisions; missionaries in foreign service.

SEC. 2202. *Missionaries in foreign service.* Missionaries duly commissioned and serving under boards of foreign missions of the various religious denominations in the United States, dying while in the foreign missionary service of such boards, shall not, by reason merely of their intention to permanently remain in such foreign service, be deemed nonresidents of the United States, but shall be presumed to be residents of the State or the District of Columbia wherein they respectively resided at the time of their commission and their departure for such foreign service.

[Sec. 2202 as amended by sec. 22(a), Alaska Omnibus Act (73 Stat. 146); sec. 18(b), Hawaii Omnibus Act (74 Stat. 416)]

PAR. 16. Immediately after § 20.2207-1 insert the following new sections:

§ 20.2208 Statutory provisions; certain residents of possessions considered citizens of the United States.

SEC. 2208. *Certain residents of possessions considered citizens of the United States.* A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a "citizen" of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

[Sec. 2208 as added by sec. 102(a), Technical Amendments Act 1958 (72 Stat. 1674)]

§ 20.2208-1 Certain residents of possessions considered citizens of the United States.

As used in this part, the term "citizen of the United States" is considered to include a decedent dying after September 2, 1958, who, at the time of his death, was domiciled in a possession of the United States and was a United States citizen, and who did not acquire his United States citizenship solely by reason of his being a citizen of such possession or by reason of his birth or residence within such possession. The estate of such a decedent is, therefore, subject to the tax imposed by section 2001. See paragraph (a) (2) of § 20.0-1 and § 20.2209-1 for further information relating to the application of the Federal estate tax to the estates of decedents who were residents of possessions of the United States. The application of this section may be illustrated by the following example and the examples set forth in § 20.2209-1:

Example. A, a citizen of the United States by reason of his birth in the United States at San Francisco, established residence in Puerto Rico and acquired a Puerto Rican

citizenship. A died on September 4, 1958, while a citizen and domiciliary of Puerto Rico. A's estate is, by reason of the provisions of section 2208, subject to the tax imposed by section 2001 inasmuch as his United States citizenship is based on birth in the United States and is not based solely on being a citizen of a possession or solely on birth or residence in a possession.

§ 20.2209 Statutory provisions; certain residents of possessions considered nonresidents not citizens of the United States.

SEC. 2209. *Certain residents of possessions considered nonresidents not citizens of the United States.* A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a "nonresident not a citizen of the United States" within the meaning of that term wherever used in this title, but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

[Sec. 2209 as added by sec. 4(b), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 999)]

§ 20.2209-1 Certain residents of possessions considered nonresidents not citizens of the United States.

As used in this part, the term "nonresident not a citizen of the United States" is considered to include a decedent dying after September 14, 1960, who, at the time of his death, was domiciled in a possession of the United States and was a United States citizen, and who acquired his United States citizenship solely by reason of his being a citizen of such possession or by reason of his birth or residence within such possession. The estate of such a decedent is, therefore, subject to the tax imposed by section 2101 which is the tax applicable in the case of a "nonresident not a citizen of the United States." See paragraph (a)(2) of § 20.0-1 and § 20.2208-1 for further information relating to the application of the Federal estate tax to the estates of decedents who were residents of possessions of the United States. The application of this section may be illustrated by the following examples and the example set forth in § 20.2208-1. In each of the following examples the decedent is deemed a "nonresident not a citizen of the United States" and his estate is subject to the tax imposed by section 2101 since the decedent died after September 14, 1960, but would not have been so deemed and subject to such tax if the decedent had died on or before September 14, 1960.

Example (1). C, who acquired his United States citizenship under section 5 of the Act of March 2, 1917 (39 Stat. 953), by reason of being a citizen of Puerto Rico, died in Puerto Rico on October 1, 1960, while domiciled therein. C is considered to have acquired his United States citizenship solely by reason of his being a citizen of Puerto Rico.

Example (2). E, whose parents were United States citizens by reason of their birth in Boston, was born in the Virgin Islands on March 1, 1927. On September 30, 1960, he died in the Virgin Islands while domiciled therein. E is considered to have acquired his United States citizenship solely by reason of his birth in the Virgin Islands (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)).

Example (3). N, who acquired United States citizenship by reason of being a native of the Virgin Islands and a resident thereof on June 28, 1932 (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)), died on October 1, 1960, while domiciled in the Virgin Islands. N is considered to have acquired his United States citizenship solely by reason of his birth or residence in the Virgin Islands.

Example (4). P, a former Danish citizen, who on January 17, 1917, resided in the Virgin Islands, made the declaration to preserve his Danish citizenship required by Article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark. Subsequently P acquired United States citizenship when he renounced such declaration before a court of record (section 306 of the Immigration and Nationality Act (66 Stat. 237, 8 U.S.C. 1406)). P died on October 1, 1960, while domiciled in the Virgin Islands. P is considered to have acquired his United States citizenship solely by reason of his birth or residence in the Virgin Islands.

Example (5). R, a former French citizen, acquired his United States citizenship through naturalization proceedings in a court located in the Virgin Islands after having qualified for citizenship by residing in the Virgin Islands for 5 years. R died on October 1, 1960, while domiciled in the Virgin Islands. R is considered to have acquired his United States citizenship solely by reason of his birth or residence within the Virgin Islands.

PAR. 17. Section 20.6163 is amended and a historical note added to read as follows:

§ 20.6163 Statutory provisions; extension of time for payment of estate tax on value of reversionary or remainder interest in property.

SEC. 6163. *Extension of time for payment of estate tax on value of reversionary or remainder interest in property—*(a) *Extension permitted.* If the value of a reversionary or remainder interest in property is included under chapter 11 in the value of the gross estate, the payment of the part of the tax under chapter 11 attributable to such interest may, at the election of the executor, be postponed until 6 months after the termination of the precedent interest or interests in the property, under such regulations as the Secretary or his delegate may prescribe.

(b) *Extension to prevent undue hardship.* If the Secretary or his delegate finds that the payment of the tax at the expiration of the period of postponement provided for in subsection (a) would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 2 years from the expiration of such period of postponement.

(c) *Cross references—*(1) *Interest.* For provisions requiring the payment of interest for the period of such extension, see section 6601(b).

(2) *Security.* For authority of the Secretary or his delegate to require security in the case of such extension, see section 6165.

[Sec. 6163 as amended by sec. 66(b)(1), Technical Amendments Act 1958 (72 Stat. 1658)]

PAR. 18. Paragraph (a) of § 20.6163-1 is amended to read as follows:

§ 20.6163-1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

(a) In case there is included in the gross estate a reversionary or remainder interest in property, the payment of the part of the tax attributable to that interest may, at the election of the execu-

tor, be postponed until six months after the termination of the precedent interest or interests in the property. In addition, if the precedent interest or interests terminated after March 2, 1958, and if the district director finds that the payment of the tax at the expiration of the period of postponement described in the preceding sentence would result in undue hardship to the estate, he may extend the time for payment for a reasonable period or periods not to exceed in all 2 years from the expiration of the period of postponement. See paragraph (b) of § 20.6161-1 for the meaning of the term "undue hardship". An example of undue hardship is a case where, by reason of the time required to settle the complex issues involved in a trust, the decedent's heirs or beneficiaries cannot reasonably expect to receive the decedent's remainder interest in the trust before the expiration of the period of postponement. The extension will be granted only in the manner provided in paragraph (c) of § 20.6161-1 (except that the application must be filed with the district director on or before the expiration of the period of postponement elected under section 6163(a)), and the amount of the tax for which the extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director. The provisions of this section are limited to cases in which the reversionary or remainder interest is included in the decedent's gross estate as such and does not extend to cases in which the decedent creates future interests by his own testamentary act.

PAR. 19. Paragraph (a) of § 20.6165-1 is amended to read as follows:

§ 20.6165-1 Bonds where time to pay tax or deficiency has been extended.

(a) *Extensions under sections 6161 and 6163(b) of time to pay tax or deficiency.* If an extension of time for payment of tax or deficiency is granted under section 6161 or 6163(b), the district director may, if he deems it necessary, require the executor to furnish a bond for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension. However, such bond shall not exceed double the amount with respect to which the extension is granted. For other provisions relating to bonds required where extensions of time to pay estate taxes or deficiencies are granted under sections 6161 and 6163(b), see the regulations under section 7101 contained in Part 301 of this chapter (Regulations on Procedure and Administration).

PAR. 20. Section 20.6325 is amended and a historical note added to read as follows:

§ 20.6325 Statutory provisions; release of lien or partial discharge of property.

SEC. 6325. *Release of lien or partial discharge of property—*(a) *Release of lien.*
* * *

(1) *Liability satisfied or unenforceable.* The Secretary or his delegate finds that the liability for the amount assessed, together with all interest in respect thereof, has been

fully satisfied or has become legally unenforceable; or

(c) *Estate or gift tax.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary or his delegate finds that the liability secured by such lien has been fully satisfied or provided for.

(d) *Effect of certificate of release or discharge.* A certificate of release or of discharge issued under this section shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

(e) *Cross references.* (1) For single bond complying with the requirements of both subsection (a) (2) and section 6165, see section 7102.

(2) For other provisions relating to bonds, see generally chapter 73.

(3) For provisions relating to suits to enforce lien, see section 7403.

(4) For provisions relating to suits to clear title to realty, see section 7424.

[Sec. 6325 as amended by sec. 77, Technical Amendments Act 1958 (72 Stat. 1662)]

[F.R. Doc. 60-10968; Filed, Nov. 23, 1960; 8:54 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 999]

[Docket No. AO-204-A12]

MILK IN WORCESTER, MASS., MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Market- ing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Aurora Hotel, 654 Main Street, Worcester, Massachusetts, beginning at 10:00 a.m., e.s.t., on December 1, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Worcester, Massachusetts, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and emergency marketing conditions which relate to the proposed amendments hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Ruda's Dairy:

Proposal No. 1. Amend § 999.64(a) of the Worcester, Massachusetts, order to include the towns of Thompson, Union and Woodstock, Connecticut, in the near-by farm location differential area.

Proposed by the New England Milk Producers' Association:

Proposal No. 2. Amend § 999.64(a) of the Worcester, Mass., order to include territory in addition to that now specified therein.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Room 403, 107 Front Street, Worcester, Mass., or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 21st day of November 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-10918; Filed, Nov. 23, 1960; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 72-75, 77, 78]

[Docket No. 3666; Notice 45]

EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Notice of Proposed Rule Making

NOVEMBER 17, 1960.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all

carriers by rail and highway. The proposed amendments are set forth below and the reasons therefor are listed in Appendix set forth below.

Applications for the proposed amendments have been the subject of exchanges and study by various interested parties, in which substantial agreement has been reached.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before December 7, 1960. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 18 U.S.C. 831-835; 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U.S.C. 304)

By the Commission, Division 3.

[SEAL]

HAROLD D. MCCOY,
Secretary.

PART 72—COMMODITY LIST OF EX- PLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71-78 OF THIS CHAPTER

Amend § 72.5 Commodity List (15 F.R. 8263, 8264, 8266, 8268, 8271, Dec. 2, 1950) (21 F.R. 4431, June 23, 1956) (24 F.R. 10109, Dec. 15, 1959) to read as follows:

§ 72.5 List of explosives and other dangerous articles.

(a) ***

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
<i>(Add)</i>				
Acetonitrile.....	F.L.....	73.118, 73.119.....	Red.....	10 gallons. See § 73.86.
Blasting caps with metal clad mild detonating fuse—1,000 or less.	Expl. O.....	No exemption, 73.103.	.....	Not accepted.
Blasting caps with metal clad mild detonating fuse—more than 1,000.	Expl. A.....	No exemption, 73.66(c), 73.67.	.....	Do.
Blasting caps with safety fuse—more than 1,000.	do.....	do.....	.....	.....
Dispersant gas, n.o.s.....	See §§ 73.314 (a) Note 19, 73.315(a) Note 9.	.....	.....	.....
Magnesium-thorium alloys in formed shapes (not powdered, and which shall contain not more than 4 percent nominal thorium 232).	Pois. D.....	73.392(e).....	Radioactive material, Group 1, Red.	See § 73.391(b).
Refrigerant gas n.o.s.....	See §§ 73.314 (a) Note 19, 73.315(a) Note 9.	.....	.....	.....
<i>(Cancel)</i>				
Dispersant gas, n.o.s.....	F.G.....	73.302, 73.306, 73.314.	Red Gas.....	300 pounds.
Do.....	Nonf. G.....	73.302, 73.306, 73.314.	Green.....	Do.
Refrigerant gas, n.o.s.....	F.G.....	73.302, 73.306, 73.314.	Red Gas.....	Do.
Do.....	Nonf. G.....	73.302, 73.306, 73.314.	Green.....	Do.

PART 73—SHIPPERS

Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

In § 73.34 amend the introductory text of paragraph (p) (15 F.R. 8284, Dec. 2, 1950) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders.

* * * * *

(p) Rebuilding of ICC-4 series, and ICC-8 series, welded or brazed cylinders is authorized. Such rebuilding must be done by a manufacturer of this type of ICC cylinder and by a process similar to that used in its original manufacture and under the following specific requirements:

Subpart B—Explosives; Definitions and Preparation

1. In § 73.66 amend the heading and paragraphs (a) and (g)(1) (15 F.R. 8290, Dec. 2, 1950) (20 F.R. 8100, Oct. 28, 1955) to read as follows:

§ 73.66 Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, and electric blasting caps.

(a) Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, or electric blasting caps, in quantity of 1,000 or less, are classified as class C explosives. See § 73.103.

* * * * *

(g) * * *

(1) Spec. 14, 15A, or 16A (§ 78.165, 78.168, or 78.185 of this chapter). Wooden boxes (see § 73.67(a)(1), Note 1) or spec. 12H, 23F, or 23H (§ 78.209, 78.214, or 78.219 of this chapter) fiberboard boxes, with inside containers which must be pasteboard cartons containing not more than 100 caps each, or pasteboard tube inclosing each cap with wires or with the wires wrapped around the tube. Gross weight of wooden boxes containing pasteboard cartons or caps with wires 30 feet or more in length in pasteboard tubes must not exceed 150 pounds, except for export shipment. Gross weight of wooden boxes containing caps with wires less than 30 feet in length in pasteboard tubes must not exceed 75 pounds.

2. In § 73.67 amend the heading and introductory text of paragraph (a), and paragraphs (b) and (c) (15 F.R. 8290, Dec. 2, 1950) (16 F.R. 11776, Nov. 21, 1951) to read as follows:

§ 73.67 Blasting caps with safety fuse and blasting caps with metal clad mild detonating fuse.

(a) Ten or less of the interior containers of not more than 100 blasting caps each, containing not to exceed 50 grains of explosive composition each, packed as prescribed in § 73.66(c), in the same outside container with safety fuse or metal clad mild detonating fuse, must be shipped in containers complying with the following specifications:

* * * * *

(b) Each outside container must be plainly marked "(number) BLASTING CAPS WITH SAFETY FUSE—HANDLE CAREFULLY" or "(number) BLASTING CAPS WITH METAL CLAD MILD DETONATING FUSE—HANDLE CAREFULLY," as the case may be.

(Note 1 canceled.)

(c) Blasting caps with safety fuse and blasting caps with metal clad mild detonating fuse must not be offered for transportation by rail express, except as provided in §§ 73.86 and 75.675 of this chapter.

3. In § 73.100 amend paragraph (aa) (25 F.R. 6625, July 14, 1960) to read as follows:

§ 73.100 Definition of class C explosives.

* * * * *

(aa) Explosive power devices, class C, are devices designed to drive generators or mechanical apparatus by means of explosives, class C, or materials classed as flammable solids by § 73.150. The devices consist of a housing with a contained propellant charge and an electric igniter or squib. The devices must not rupture on functioning and must be of a type approved by the Bureau of Explosives for this classification.

4. In § 73.102 amend paragraph (a) and add paragraphs (a) (1) and (2) (25 F.R. 3099, April 12, 1960) to read as follows:

§ 73.102 Explosive cable cutters, explosive power devices, class C, or explosive release devices.

(a) Explosive cable cutters, explosive power devices, class C, or explosive release devices must be packed in specification containers as follows:

(1) Spec. 12H, 23F, or 23H (§ 78.209, 78.214, or 78.219 of this chapter). Fiberboard boxes. Authorized gross weight not to exceed 65 pounds.

(2) In addition to specification containers prescribed in this section, explosive cable cutters, explosive power devices, class C, or explosive release devices may be shipped when packed in strong wooden or metal boxes, or other containers approved by the Bureau of Explosives.

5. In § 73.103 amend the heading and paragraph (a) (15 F.R. 8296, Dec. 2, 1950) to read as follows:

§ 73.103 Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, and electric blasting caps, not exceeding 1,000 caps.

(a) Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, and electric blasting caps, in quantity not exceeding 1,000 caps, must be packed and marked as prescribed in §§ 73.66 and 73.67.

6. In § 73.107 amend paragraph (c) (16 F.R. 5323, June 6, 1951) to read as follows:

§ 73.107 Primers, percussion caps, and empty grenades, primed.

* * * * *

(c) Small-arms primers containing anvils must be packed in cellular inside packages, with partitions separating

the layers and columns of the primers, so that the explosion of a portion of the primers in the completed shipping package will not cause the explosion of all the primers. They must be packed as prescribed in paragraphs (a) of this section or in spec. 12B (§ 78.205 of this chapter) fiberboard boxes, and equipped with corrugated fiberboard liners having Mullen or Cady test equal to or exceeding that of the box, except liner is not required for full depth telescope style box which may be closed as specified by § 78.205-17(a)(2) of this chapter. Not more than 5,000 primers shall be packed in each fiberboard box.

Subpart C—Flammable Liquids; Definition and Preparation

1. In § 73.119 amend paragraph (m) (1) (15 F.R. 8300, Dec. 2, 1960) to read as follows:

§ 73.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(1) Spec. 1A, 1D, or 1EX (single-trip) (§ 78.1, 78.4, or 78.6 of this chapter). Glass carboys, boxed or in plywood drums, capacity not over 5 gallons for spec. 1A (§ 78.1 of this chapter).

2. In § 73.125 amend paragraph (a) (7) (25 F.R. 10392, Oct. 29, 1960) to read as follows:

§ 73.125 Alcohol.

(a) * * *

(7) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

1. In § 73.164 amend paragraph (a) (2) (20 F.R. 4415, June 23, 1955) to read as follows:

§ 73.164 Chromic acid.

(a) * * *

(2) Spec. 17E, 17H, 37A, or 37B (§ 78.116, 78.118, 78.131, or 78.132 of this chapter). Metal drums (single-trip). Spec. 37A (§ 78.131 of this chapter) metal drums constructed of 22-gauge steel are authorized for a gross weight of 490 pounds when shipped in carload or truckload lots only.

2. In § 73.189 add paragraph (a)(3) (15 F.R. 8308, Dec. 2, 1950) to read as follows:

§ 73.189 Phosphorus, amorphous, red.

(a) * * *

(3) Spec. 29 (§ 78.226 of this chapter). Mailing tube having not more than 40 grams of phosphorus contained in an inside glass container sealed under nitrogen with an air tight closure. The glass container shall be packed in a metal can having air tight closure. Both the in-

side glass container and the metal can shall be surrounded on all sides with incombustible cushioning material.

3. In § 73.206 add paragraph (c) (3) (15 F.R. 8310, Dec. 2, 1950) to read as follows:

§ 73.206 Sodium or potassium, metallic, sodium amide, sodium potassium alloys, lithium metal, lithium silicon, lithium hydride, and lithium aluminum hydride.

(c) * * *

(3) Spec. MC 330 (§ 78.336 of this chapter). Tank motor vehicles having a minimum design pressure of 150 pounds per square inch and having exterior coils fusion-welded to the tank shell and properly stress-relieved. Tanks must be equipped with approved safety valves having a set-to-discharge pressure not exceeding 150 pounds per square inch. The material must be in molten condition when loaded and solidified before being moved over a public highway. Outage must be 5 percent or more at a sodium temperature of 208° F.

4. § 73.217 amend paragraph (b) (24 F.R. 904, Feb. 6, 1959) to read as follows:

§ 73.217 Calcium hypochlorite compounds, dry, and lithium hypochlorite compounds, dry.

* * *

(b) Strong outside wooden or fiberboard packages containing inside containers of glass, metal, or plastic bottles not over 5 pounds capacity each, except that metal inside containers not over 7½ pounds capacity each are authorized for material in tablet form only, are exempt from specification packaging, marking, and labeling when offered for transportation by rail freight, rail express, or highway. When for transportation by water, strong wooden or fiberboard containers with inside metal containers not over 5 pounds capacity each, or not over 7½ pounds capacity each of material in tablet form, are exempt from specification packaging only. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

5. In § 73.221 amend paragraph (a) (9) (25 F.R. 10393, Oct. 29, 1960) to read as follows:

§ 73.221 Liquid organic peroxides, n.o.s., and liquid organic peroxide solutions, n.o.s. other than acetyl peroxide solution, acetyl benzoyl peroxide solution, cumene hydroperoxide, dicumyl peroxide, hydrogen peroxide, peracetic acid, and tertiary butylisopropyl benzene hydroperoxide.

(a) * * *

(9) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

1. In § 73.245 amend paragraph (a) (21) (25 F.R. 10393, Oct. 29, 1960) to read as follows:

§ 73.245 Acids or other corrosive liquids not specifically provided for.

(a) * * *

(21) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

2. In § 73.257 add paragraph (a) (14) (15 F.R. 8315, Dec. 2, 1950) to read as follows:

§ 73.257 Electrolyte (acid) or corrosive battery fluid.

(a) * * *

(14) Spec. 12B (§ 78.205 of this chapter). Corrugated fiberboard boxes with plastic bags as defined in § 78.205-37 of this chapter. Marking prescribed in § 73.401(c) shall not be required.

3. In § 73.263 amend paragraph (a) (23) (25 F.R. 10393, Oct. 29, 1960) to read as follows:

§ 73.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) * * *

(23) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

4. In § 73.272 amend paragraph (f) (8) (25 F.R. 10394, Oct. 29, 1960) to read as follows:

§ 73.272 Sulfuric acid.

* * *

(f) * * *

(8) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

5. In § 73.277 amend paragraph (a) (5) (25 F.R. 10394, Oct. 29, 1960) to read as follows:

§ 73.277 Hypochlorite solutions.

(a) * * *

(5) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene

containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

Subpart F—Compressed Gases; Definition and Preparation

1. In § 73.302 amend paragraph (a) (3) (22 F.R. 2226, April 4, 1957) to read as follows:

§ 73.302 Exemptions for compressed gases.

(a) * * *

(3) Inside nonrefillable metal containers charged with a solution of materials and compressed gas or gases, of capacity not exceeding 32 cubic inches. Contents of the container must be non-poisonous and if flammable as provided in § 73.300(b) (2), (3), and (4), the flash point, as determined by Bureau of Explosives' Method, must be not less than 20° F. Pressure in the container must not exceed 75 pounds per square inch absolute at 70° F. and the liquid content of the material and gas must not completely fill the container at 130° F. However, if the pressure exceeds 55 pounds per square inch absolute at 70° F., a spec. 2P (§ 78.33 of this chapter) inside metal container must be used. Each completed container filled for shipment must have been heated until content reached a minimum temperature of 130° F. without evidence of leakage, distortion, or other defect.

2. In § 73.306 amend paragraph (a) (1) (22 F.R. 3925, June 5, 1957) to read as follows:

§ 73.306 Liquefied gases, except acetylene in solution.

(a) * * *

(1) Spec. 3,¹ 3A, 3AA, 3B, 3E, 4, 4A, 4B, 4BA, 4B24OET, 25,¹ 26,¹ or 38¹ (§§ 78.36, 78.37, 78.38, 78.42, 78.48, 78.49, 78.50, 78.51, 78.55 of this chapter). Spec. 9, 40, or 41 (§§ 78.63, 78.66 or 78.67 of this chapter) inside metal containers may also be used, except that mixtures containing aluminum triethyl, aluminum trimethyl, carbon bisulfide (disulfide), ethyl chloride, ethylene oxide, nickel carbonyl, spirits of nitroglycerin, zinc ethyl, or poisonous articles, class A, B, or C, as defined by this part are not permitted unless otherwise prescribed in this part. (See §§ 73.34 and 73.301(g).)

3. In § 73.307 amend paragraph (a) (2) (24 F.R. 10111, Dec. 15, 1959) to read as follows:

§ 73.307 Nonliquefied gases, except gas in solution or poisonous gas.

(a) * * *

(2) Spec. 3HT (§ 78.44 of this chapter) cylinders are authorized for non-flammable gases, for aircraft use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing, shall be used with spec. ICC-3HT (§ 78.44 of this chapter) cylinders and the rated burst-

ing pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used. Cylinders must be shipped in strong outside containers.

4. In § 73.308 amend paragraph (a) Table and Note 15, add Note 16 (22 F.R.

11032, Dec. 31, 1957) (19 F.R. 8527, Dec. 14, 1954) (24 F.R. 10111, Dec. 15, 1959) (15 F.R. 8327, Dec. 2, 1950) to read as follows:

§ 73.308 Compressed gases in cylinders.

(a) * * *

Kind of gas	Maximum permitted filling density (see Note 12)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e)
(Change)	(Percent)	
Dichlorodifluoromethane (see Note 16)-----	119	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225; ICC-4B240ET; ICC-9; ICC-41.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (see Note 16).	(2)	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4A240; ICC-4B240; ICC-4BA240; ICC-9.
Insecticide, liquefied gas (see Notes 8 and 16)-----	(2)	ICC-3A300; ICC-3AA300; ICC-3B300; ICC-4B300; ICC-4BA300; ICC-9; ICC-40; ICC-41.
Liquefied nonflammable gases, liquids other than those classified as flammable, corrosive, or poisonous and mixtures or solutions thereof, charged with nitrogen, carbon dioxide, or air (see Notes 10, 15, and 16).	(3)	ICC-3A300; ICC-3AA300; ICC-3HT900; ICC-4B300; ICC-4BA300; ICC-4D300; ICC-4DA500.
Monochlorodifluoromethane (see Note 16)-----	105	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4B240; ICC-4BA240; ICC-4B240ET; ICC-41.

NOTE 15: Spec. 3HT (§ 78.44 of this chapter) cylinders are authorized for aircraft use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing, shall be used with spec. 3HT. (§ 78.44 of this chapter) cylinders and the rated bursting pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used. Cylinders must be shipped in strong outside containers.

NOTE 16: Specs 4D, 4DA, 9, 40, and 41 (§§ 78.53, 78.58, 78.63, 78.66, and 78.67 of this chapter) spheres and cylinders must be shipped in strong outside containers.

5. In § 73.310 amend paragraph (a) (6) (20 F.R. 951, Feb. 15, 1955) to read as follows:

§ 73.310 Fire extinguishers and component parts thereof.

(a) * * *

(6) When spec. 2P (§ 78.33 of this chapter) inside metal containers are used for pressures not exceeding 85 pounds per square inch absolute, at 70° F. or 115 pounds per square inch absolute, at 130° F. the test requirements of paragraph (a) (5) of this section do not apply,

but each container must be capable of having the contents heated to 130° F. without evidence of leakage or permanent distortion.

6. In § 73.312 amend paragraph (a) (1) (22 F.R. 7837, Oct. 3, 1957) to read as follows:

§ 73.312 Liquefied petroleum gas.

(a) * * *

(1) Spec. 3, 3A, 3AA, 3B, 3E, 4, 4A, 4B, 4BA, 4B240X¹ (§§ 78.36, 78.37, 78.38, 78.42, 78.48, 78.49, 78.50, 78.51 of this chapter) (see appendix A to Subpart C of Part 78), 4B240FLW, 4B240ET, 4E, 25,¹ 26,¹ 38¹ (§§ 78.54, 78.55, 78.68 of this chapter) cylinders, or 9 and 41 (§§ 78.63 and 78.67 of this chapter) inside containers. Cylinders authorized under § 73.34 (a) to (e) may be used.

(No change in Note 1.)

7. In § 73.314 amend paragraph (a) Table and Note 19 thereto (22 F.R. 2227, Apr. 4, 1957) (24 F.R. 10111, Dec. 15, 1959) (23 F.R. 2327, Apr. 10, 1958) (22 F.R. 7837, Oct. 3, 1957) to read as follows:

§ 73.314 Compressed gases in tank cars.

(a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(Change)	(Percent)	
Difluoroethane-----	79-----	ICC-106A500, 106A500X, 110A500-W, Note 12.
Difluoromonochloroethane-----	84-----	ICC-105A300-W.
Liquefied petroleum gas (pressure not exceeding 225 pounds per square inch at 105° F.).	100-----	ICC-106A500, 106A500X, 110A500-W, Note 12.
(Cancel)	Note 3-----	ICC-105A300-W, Notes 5 and 9.
Dispersant gas, n.o.s.-----	Note 16-----	ICC-106A500, 106A500X, Notes 12 and 19.
Refrigerant gas, n.o.s.-----	Note 16-----	ICC-110A500-W, Note 19.
		ICC-105A300-W, Note 19.
		ICC-106A500, 106A500X, Notes 12 and 19.
		ICC-110A500-W, Note 19.
		ICC-105A300-W, Note 19.

NOTE 19: This gas may be transported in authorized tank car tanks stenciled "DISPERSANT GAS, N.O.S." or "REFRIGERANT GAS, N.O.S."

8. In § 73.315 amend Note 9 of paragraph (a) Table; amend paragraphs (i) (1) and (10) and footnote 1 (25 F.R. 6627, July 14, 1960) (23 F.R. 2328, Apr. 10, 1958) to read as follows:

§ 73.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

NOTE 9: This gas may be transported in authorized cargo tanks marked "DISPERSANT GAS, N.O.S." or "REFRIGERANT GAS, N.O.S."

(i) * * *

(1) Safety relief valves on any container shall be set to start-to-discharge at a pressure not in excess of 110 percent of the design pressure of the container and shall be in accordance with the Compressed Gas Association's "Safety Relief Device Standards for Cargo and Portable Tanks" 1959 edition and must be approved by the Bureau of Explosives as to type, quantity, and location.

(10) Subject to conditions of paragraph (a) (1) of this section for sulfur dioxide optional portable tank 1,000-2,000 pounds water capacity—225 psig, one or more fusible plugs approved by the Bureau of Explosives may be used in lieu of safety relief valves of the spring-loaded type. The fusible plug or plugs shall be in accordance with the Compressed Gas Association's "Safety Relief Device Standards for Cargo and Portable Tanks" 1959 edition.

Subpart G—Poisonous Articles; Definition and Preparation

1. In § 73.346 amend paragraph (a) (24) (25 F.R. 10395, Oct. 29, 1960) to read as follows:

§ 73.346 Poisonous liquids not specifically provided for.

(a) * * *

(24) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside spec. 2U (§ 78.24 of this chapter) polyethylene containers not over 5 gallons capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples, or other projections, that could cause failures.

2. In § 73.392 add paragraph (e) (15 F.R. 8324, Dec. 2, 1950) to read as follows:

§ 73.392 Exemptions for radioactive materials.

* * *

(e) Magnesium-thorium alloys containing not more than 4 percent nominal

¹ Copies obtainable from the Compressed Gas Association, Inc., 11 West 42d Street, New York 36, New York.

thorium 232, in formed shapes, must be in bundles, boxes, barrels or crates and as such are exempt from specification packaging but must be labeled as described in § 73.414(d). Other exemptions from loading, storage, and placarding are described in Parts 74, 75, and 77 of this chapter.

3. In § 73.394 add paragraph (c) (15 F.R. 8340, Dec. 2, 1950) to read as follows:

§ 73.394 Radioactive materials labels.

(c) Each bundle, box, barrel or crate of magnesium-thorium alloys in formed shapes must be labeled with a label as described in § 73.414(d) unless exempt by § 73.392 (a) and (b).

Subpart H—Marking and Labeling Explosives and Other Dangerous Articles

1. In § 73.400 amend paragraph (f) (23 F.R. 7649, Oct. 3, 1958) to read as follows:

§ 73.400 Explosives.

(f) Each shipment of explosive power devices class B, igniters, jet thrust (jato), class B explosives, jet thrust units (jato), class B explosives, propellant explosives, class B, or starter cartridges, jet engine, class B explosives, when offered for transportation by carriers by rail express, must bear the label prescribed by § 73.412.

2. In § 73.402 paragraph (a) redesignate subparagraphs (10), (11), (12), and (13) as (11), (12), (13), and (14) respectively and add a new subparagraph (10) (17 F.R. 1562, Feb. 20, 1952) (15 F.R. 8341, Dec. 2, 1950) (24 F.R. 3599, May 5, 1959) to read as follows:

§ 73.402 Labeling dangerous articles.

(a) * * *

(10) "Radioactive materials" label as described in § 73.414(d) on bundles, boxes, barrels or crates of magnesium-thorium alloys as provided for by § 73.392(e).

(11) "Tear gas" label as described in § 73.409(a) (3) on containers of poisons, class C.

(12) "Bung label" as described in § 73.119(i) on metal barrels or drums containing flammable liquids with vapor pressure exceeding 16 pounds per square inch absolute.

(13) "Empty label" as described in § 73.413 must be applied to containers which have been emptied and on which the old label has not been removed, obliterated, or destroyed. It must be so placed on the container as to completely cover the old label.

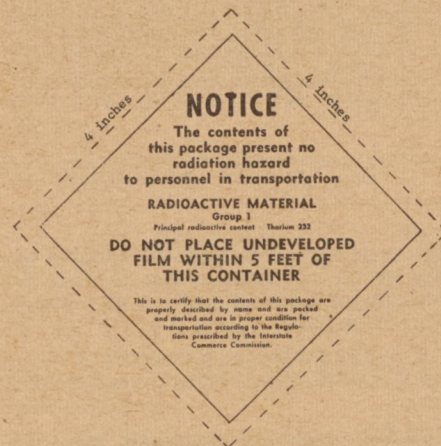
(14) Labels authorized for shipments of explosives and other dangerous articles by air, as shown in §§ 73.405(b), 73.406(b), 73.407(b), 73.408(b), 73.409(b), 73.410(b), 73.411(b), 73.412(b), and

73.414(c), may be used in lieu of labels otherwise prescribed for surface transportation to or from airport.

3. In § 73.414 add paragraph (d) (15 F.R. 8343, Dec. 2, 1950) to read as follows.

§ 73.414 Radioactive materials labels.

(d) Label for radioactive material, such as magnesium-thorium alloys in formed shapes (see § 73.392(e)), must be of diamond shape, white in color, and with each side 4 inches long. Printing must be in red letters inside of a red-line border measuring 3½ inches on each side, as shown in this paragraph.



PART 74—CARRIERS BY RAIL FREIGHT

Subpart A—Loading, Unloading, Placarding and Handling Cars; Loading Packages Into Cars

1. In § 74.525 amend paragraph (a) (20 F.R. 952, Feb. 15, 1955) to read as follows:

§ 74.525 Loading packages of explosives in cars, selection, preparation, inspection and certification.

(a) Except as provided in § 74.526 (b), (n), and (o), explosives, class A, must be loaded in closed cars, certified and placarded "Explosives."

2. In § 74.532 amend entire paragraph (j) (22 F.R. 11032, Dec. 31, 1957) (15 F.R. 8348, Dec. 2, 1950) to read as follows:

§ 74.532 Loading other dangerous articles.

(j) Radioactive materials and radioactive ores, residues, and similar materials.

(1) Shipments of radioactive ores, residues or similar material as provided in § 73.392 of this chapter must be so loaded as to avoid spillage and scattering of loose material.

(i) The amount of radioactive ores, residues, and similar materials loaded in a car must be limited as provided in § 73.392 of this chapter.

(2) The amount of radioactive materials, other than radioactive ores, resi-

dues, or similar materials, loaded in a freight car shall be limited so that the quantity does not exceed 40 units as determined by totaling the number of units shown on the individual labels on the packages. (The requirements of this paragraph do not apply to bundles, boxes, barrels or crates of magnesium-thorium alloys described by § 73.392(e) of this chapter.)

NOTE 1: For purposes of these regulations, 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm of hard gamma rays of radium filtered by ½ inch of lead.

(i) Containers of radioactive material which because of design cannot be loaded in closed cars may be loaded on flat cars or in gondola cars (drop-bottom cars not authorized). Containers must be so blocked and braced that they cannot change position during transit.

(3) No persons shall remain in a car containing radioactive material unnecessarily and the shipper must furnish the carrier with such information and equipment as is necessary for the protection of the carrier's employees.

(4) Any loose radioactive material must be removed from the car and placed in a closed container in a segregated location and held for instructions from the shipper or the Bureau of Explosives.

Subpart C—Placards on Cars

1. In § 74.541 amend paragraph (b) (22 F.R. 3926, June 5, 1957) to read as follows:

§ 74.541 "Dangerous" placards; "Dangerous—Radioactive material" placards; or "Caution—Residual phosphorus" placards.

(b) "Dangerous—Radioactive material" placards, as prescribed in § 74.553, must be applied to cars containing shipments of class D poisons as prescribed by § 73.392 of this chapter and bearing labels as described in § 73.414 (a) and (b) of this chapter.

2. In § 74.544 add paragraph (a) (6) (15 F.R. 8351, Dec. 2, 1950) to read as follows:

§ 74.544 Placards not required.

(a) * * *

(6) Cars containing radioactive material bearing label described in § 73.414 (d) of this chapter.

3. In § 74.549 add paragraph (a) (6) (15 F.R. 8351, Dec. 2, 1950) to read as follows:

§ 74.549 Application of placards.

(a) * * *

(6) By application of adhesive tape, which shall be not more than 1¼ inches wide and which shall be applied around the entire perimeter of the placard so that approximately one-half the width of the tape adheres to the placard and one-half to the surface to which the placard is attached. Tape must be properly

applied, weather-resistant, and capable of holding the placard securely in position under conditions normal to transportation. This method is authorized only when attachment of placards to metal surfaces is necessary and the metal surface is sufficiently smooth and of sufficient size to permit attachment of the placards in their proper position.

	Label notation to follow entry of the article on the billing	Placard notation to follow entry of the article on the billing	Placard endorsement must be 3/4" high and appear on the billing near the space provided for the car number
(Change)			
For radioactive materials, class D, poison.	Radioactive material label.	"Dangerous Radioactive material Placard." ¹	"Dangerous Radioactive material." ¹

¹ These requirements do not apply to billing prepared for shipment of magnesium-thorium alloys described in § 73.392(e) of this chapter and bearing red label as described in § 73.414(d) of this chapter.

2. In § 74.586 add paragraph (h) Note 1 (22 F.R. 11032, Dec. 31, 1957) to read as follows:

§ 74.586 Handling explosives and other dangerous articles.

(h) * * *

NOTE 1: The requirements of this paragraph shall not apply to magnesium-thorium alloy materials described in § 73.392(e) of this chapter. The location of bundles, boxes, barrels or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

3. In § 74.589 amend the introductory text of paragraph (b) (24 F.R. 5642, July 14, 1959) to read as follows:

§ 74.589 Handling cars.

(b) *Placards on cars.* A car requiring car certificates and "Explosives," "Dangerous," "Dangerous-Radioactive Material," "Poison Gas," "Flammable Poison Gas," or "Caution-Residual Phosphorus" placards under the provisions of this part shall not be transported unless such freight car is at all times placarded and certificated as required. Placards and car certificates lost in transit shall be replaced at the next inspection point, and those not required shall be removed at the next terminal where the train is classified.

PART 75—CARRIERS BY RAIL EXPRESS

In § 75.655 add paragraph (j) Note 1 (15 F.R. 8359, Dec. 2, 1950) to read as follows:

§ 75.655 Protection of packages.

(j) * * *

NOTE 1: Except for subparagraph (7), the requirements of this paragraph shall not apply to magnesium-thorium alloy materials described in § 73.392(e) of this chapter. The location of bundles, boxes, barrels or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

Subpart E—Handling by Carriers by Rail Freight

1. In § 74.584 amend paragraph (a) table and add footnote 1 thereto (24 F.R. 5642, July 14, 1959) as follows:

§ 74.584 Waybills, switching orders, or other billing.

(a) * * *

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Subpart A—General Information and Regulations

1. In § 77.819 amend paragraph (b) (15 F.R. 8363, Dec. 2, 1950) to read as follows:

§ 77.819 Certificate.

(b) For the relief of shippers from multiplicity of certifications required for packages which may move by various means of transportation, shipments may be certified for rail, motor vehicle, water, or air transportation by adding to the certificate required on the shipping document "and the Commandant of the Coast Guard," or "and the Administrator of the Federal Aviation Agency," as the case may be.

2. In § 77.823 amend the introductory text of paragraph (a) (21 F.R. 3013, May 5, 1956) to read as follows:

§ 77.823 Marking on motor vehicles and trailers.

(a) Every motor vehicle, other than tank motor vehicles, transporting any quantity of explosives, class A; poison gas, class A; or radioactive material, poison class D requiring red radioactive materials label except label described in § 73.414(d) of this chapter for which placards are not required; and every motor vehicle transporting 2,500 pounds gross weight or more of explosives, class B, flammable liquids, flammable solids or oxidizing materials, corrosive liquids, compressed gas, class B poisons, and tear gas, or 5,000 pounds gross weight or more of two or more articles of these groups shall be marked or placarded on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background as follows:

(No change in listing.)

Subpart B—Loading and Unloading

1. In § 77.834 amend paragraph (1) and add subparagraph (1) (23 F.R. 2329, April 10, 1958) to read as follows:

§ 77.834 General requirements.

(1) *Truck bodies or trailers equipped with heaters or automatic refrigeration apparatus.* Except as provided in subparagraph (1) of this paragraph flammable liquids (red label) and flammable gases (red label) must not be loaded in truck bodies or trailers equipped with heaters or automatic refrigerating apparatus unless the fuel tanks for such apparatus be empty or removed from the vehicle and the automatic apparatus rendered inoperative.

(1) This prohibition does not apply to heating or refrigeration apparatus when the lading space is equipped with no electrical apparatus other than of non-sparking or explosion-proof types, no combustion apparatus in the lading space, and no connection for return of air from the lading space to any combustion apparatus. The heating system must be such that no part of the lading is heated over 130° F., and conform to § 193.77 of this chapter.

2. In § 77.835 amend paragraph (g) (21 F.R. 4434, June 23, 1956) to read as follows:

§ 77.835 Explosives.

(g) *Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse and/or electric blasting caps in same vehicle with other explosives.* Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse and/or electric blasting caps, without limitation as to quantity except as limited in paragraph (m) of this section, may be transported in the same motor vehicle with high explosives (dynamites and similar explosives) when the net weight of the high explosives (dynamites and similar explosives) does not exceed 5,000 pounds, as follows: The blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse and electric blasting caps must be packed in authorized I.C.C. specification outside shipping containers, or in prescribed inside I.C.C. packages in an outside box made of 1 inch lumber lined with suitable padding material not less than 1/2 inch thick or a box made of not less than 12 gauge sheet metal lined with plywood or other suitable material not less than 3/8 inch thick so that no metal is exposed. Hinged cover and fastening device are required on boxes. These boxes must be loaded in motor vehicle so that contents or box will be immediately accessible for removal and so that other containers in the motor vehicle will not fall on them or otherwise damage them during transit. Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse or electric blasting caps when not packed in containers referred to above in this paragraph must be transported in containers as prescribed in spec. MC 201 (§ 78.318 of this chapter). See paragraph (m) of this section for shipment of blasting caps with liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate. Explosive projectiles with det-

onating fuzes assembled in place must not be transported unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government, or unless of a type approved by the Bureau of Explosives.

3. In § 77.841 add paragraph (d) Note 1 (15 F.R. 8367, Dec. 2, 1950) to read as follows:

§ 77.841 Poisons.

(d) * * *
(5) * * *

NOTE 1: The requirements of this paragraph shall not apply to magnesium-thorium alloy materials described in § 73.392(e) of this chapter. The location of bundles, boxes, barrels or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

Marked capacity not over (gallons)	Authorized gross weight not over (pounds) ⁵	Type of container	Minimum thickness, uncoated sheets ¹ (gauge)		Minimum ring gauge bolted type ²
			Body sheet ³	Head sheet ⁴	
5	60	Straight side	26	26	Lug or plain ring seat.
5	80	do	24	24	
10	160	do	24	24	
55	150	do	26	26	18, plain.
55	275	do	24	24	Do.
55	350	do	24	24	16, 2 inch overlap.
55	480	do	22	22	Do.

¹ All gauges specified are minimum except as provided by Part 73 of this chapter. Heavier (but not lighter) gauges may be specified if shipper so desires.

² Equally efficient closing devices may be authorized by the Bureau of Explosives upon demonstration of their ability to withstand tests prescribed in § 78.131-11.

³ Containers of 16 gallons capacity and over must have 2 swaged or corrugated rolling hoops of sufficient height to clear the closing device when the drum is rolled.

⁴ Head sheet may have holes of suitable size to provide for protruding closures when drum is used as overpack for inside container, spec. 2S, 2SL, 2T, or 2TL (§ 78.35, 78.35a, 78.21 or 78.27). Drum not over 16 gallons capacity may have lug type closure for removable heads.

⁵ Drum must be manufactured in accordance with gauge requirements applicable to gross weight and capacity as prescribed, except that gross weight restriction indicated by the gross weight embossment shall be waived when drum is used with inside plastic containers as prescribed by Part 73 of this chapter.

⁶ When drum is used in conjunction with inside spec. 2S or 2SL (§ 78.35 or 78.35a) polyethylene container, two ¼-inch holes are permitted diametrically opposite each other in the drum body near the bottom chime and three holes not exceeding ¼-inch in diameter in the bottom head.

⁷ A gross weight of 490 pounds is authorized when defined by Part 73 of this chapter (see § 73.164 (a)(2) of this chapter).

Subpart E—Specifications for Wooden Barrels, Kegs, Boxes, Kits, and Drums

1. In § 78.165-8 paragraph (a) table amend the column heading now reading, "Nails (minimum size)" to read "Nails (minimum size)"; add footnote 4 thereto (15 F.R. 8460, Dec. 2, 1950) to read as follows:

§ 78.165 Specification 14; wooden boxes, nailed.

§ 78.165-8 Parts and dimensions.

(a) * * *

⁴ Sixteen gauge, coated wire staples with ¼-inch crown and having minimum length of 1 inch are authorized in lieu of nails when used for fastening tops to boxes. Staples must be spaced and driven to provide closure efficiency equivalent to that provided by §§ 78.165-11 and 78.165-12.

2. In § 78.187-2 amend paragraph (a)(3) (25 F.R. 10403, Oct. 29, 1960) to read as follows:

§ 78.187 Specification 16D; wooden wirebound overwrap for inside containers.

§ 78.187-2 Construction requirements.

(a) * * *

(3) Where binding wire closure clinches contact inner container, 1½

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes

In § 78.131-6 paragraph (a) amend table in its entirety; amend footnote 6 and add footnote 7 (24 F.R. 3600, May 5, 1959) (23 F.R. 4031, June 10, 1958) (22 F.R. 7842, Oct. 3, 1957) (22 F.R. 2234, Apr. 4, 1957) (21 F.R. 9363, Nov. 30, 1956) (20 F.R. 4419, June 23, 1955) (25 F.R. 10402, Oct. 29, 1960) to read as follows:

§ 78.131 Specification 37A; steel drums.

§ 78.131-6 Capacities, weights, type, and gauges.

(a) * * *

panels. Tape shall have a minimum tensile strength of 160 pounds per inch of width; minimum adhesion value of 18 ounces per inch of width; and minimum elongation of 12 percent at break, or having a minimum longitudinal tensile strength of not less than 240 pounds per inch of width; minimum adhesion value of 18 ounces per inch of width and a minimum elongation of 3 percent at break.

§ 78.205-37 Special box; with inside polyethylene or other suitable plastic bags for packaging of electrolyte (acid) or alkaline corrosive battery fluid only.

(a) Box shall comply with this specification, except as follows: Box must be of one-piece construction of regular slotted style and be constructed of at least 275-pound test double-faced corrugated fiberboard with complete corrugated fiberboard liner, a scored and flanged bottom pad, and a scored and flanged top tray pad, reinforced, all of same material as box. Box may have die-cut areas of minimum size to provide access to inside closure part.

(b) Box must have 2 polyethylene or other suitable plastic bags, one within the other, with closure adequate to prevent leakage under conditions incident to transportation; maximum volumetric capacity not over 5 gallons. Bags shall be formed of tubing of virgin plastic material not less than 0.004 inch thick, with joints heat sealed.

(c) Representative samples of completely assembled boxes, with all parts closed as for shipment, must be capable of withstanding the following tests without leakage or serious damage to boxes. No one box shall be expected to withstand more than one of the following tests:

(1) Box with inside container filled with 5 gallons of a liquid of the same specific gravity as expected contents for shipment must be dropped twice from a height of 4 feet onto concrete, one drop to be made with the box positioned so as to strike flat on the box bottom, the other drop to be made so box will strike flat on the largest face.

(2) Box with inside container filled with 5 gallons of a solution which is compatible with the plastic bags, and remains liquid at 0° F. or lower shall be dropped once from a height of 4 feet onto concrete, when container and contents are at or below 0° F. Box shall be positioned so as to strike flat on the box bottom.

(3) Box with inside container filled as prescribed in subparagraph (1) on this paragraph shall be capable of withstanding a vibration test by placing the container on the vibration table anchored in such manner that all horizontal motion shall be restricted and only vertical motion allowed. The test shall be performed for one hour using an amplitude of one inch at a frequency that causes the test container to be raised from the floor of the table to such a degree that a piece of paper or flat steel strap or tape can be passed between the table and the container.

inches wide water-resistant fabric cloth with plastic coated backing and pressure-sensitive adhesive or other suitable means shall be applied in a single strip across clinches, or other equally efficient methods may be used.

Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes

1. In § 78.205-17 amend paragraph (a)(2); add § 78.205-37 (25 F.R. 3106, April 12, 1960) (15 F.R. 8476, Dec. 2, 1950) to read as follows:

§ 78.205 Specification 12B; fiberboard boxes.

§ 78.205-17 Closing for shipment.

(a) * * *

(2) For fiberboard boxes containing not more than 1 inside metal can not exceeding 1 gallon nominal capacity, and as otherwise authorized by Part 73 of this chapter, by application of 2 strips of pressure-sensitive tape not less than ½ inch in width, 1 strip to be placed approximately equal distance over the seam of abutting outer flaps, the other at a right angle to the first and spaced approximately equal distance on the closure face; strips must be of sufficient length to extend not less than 1 inch beyond score lines on side and end

(d) Tests to be conducted by or for each plant assembling and filling boxes at the initial start of production and must be repeated at intervals of four months thereafter; initial tests must be witnessed by a representative of the Bureau of Explosives. Samples last tested must be dated with date of test and must be retained until subsequent tests are conducted. Empty boxes with liners may be shipped to a central point for assembling, filling and testing in which case the Bureau of Explosives must be advised of test location.

2. In § 78.209-8 amend paragraph (a) (3) (24 F.R. 5643, July 14, 1959) to read as follows:

§ 78.209 Specification 12H; fiberboard boxes.

§ 78.209-8 Type authorized.

(a) * * *

(3) Box to consist of 1-piece or 3-piece, without recessed heads, fitted with lining tube as prescribed in § 78.209-11, except that lining tube is not required for boxes used for shipment of electric blasting caps packed in accordance with § 73.66(g)(1) of this chapter. When outer flaps butt, inner flaps must also butt, except that they may overlap not to exceed ½ inch, or outer flaps may overlap a minimum of 2 inches to and including full overlap, and inner flaps may be of same length as outer flaps.

3. In § 78.218-13 add paragraph (b) (19 F.R. 6274, Sept. 29, 1954) to read as follows:

§ 78.218 Specification 23G; special cylindrical fiberboard box for high explosives.

§ 78.218-13 Completed containers.

* * * * *

(b) As an alternate to compression test requirements of paragraph (a) (1) and (2) of this section, samples must pass the following tests immediately after exposure for 2 weeks to 90 percent humidity at 75° F. or 70 percent humidity at 100° F.; loaded containers shall contain dummy contents of shape and weight same as expected contents. Static loading tests as specified herein must be conducted with the prescribed weight in place for at least 60 minutes, with deflection of container not in excess of the following:

(1) Three loaded samples to be tested. Each container must be capable of withstanding end-to-end pressure of at least 375 pounds without deflection over 1½ inches.

(2) Three loaded samples to be tested. Each container must be capable of withstanding side-to-side pressure of at least 350 pounds without deflection over ½ inch.

APPENDIX

Section, Paragraph, and Reason for Amendment

72.5(a) Commodity list; provides amendments, additions and cancellations to keep commodity list on a current basis.
73.34(p); to indicate that authority to rebuild cylinders applies to all cylinders within the ICC-4 and ICC-8 series.
73.66(a); to authorize the shipment of safety fuse, and metal clad mild detonating fuse with blasting caps.

73.66(g)(1); to increase the gross weight limitation for wooden boxes containing electric blasting caps with wires 30 ft. or more, inside pasteboard tubes.

73.67 (a), (b), (c); to provide for the packaging of blasting caps with metal clad mild detonating fuse, and the marking of containers.

73.100(aa); to redefine explosive power devices, class C as devices containing class C explosives or flammable solids, along with specifying that such devices must not rupture on functioning.

73.102(a); to provide specification fiberboard boxes as additional containers for explosive cable cutters, explosive power devices, class C, and explosive release devices.

73.103(a); to provide for the shipment of blasting caps with safety fuse or metal clad mild detonating fuse as class C explosives.

73.107(c); to eliminate requirement for liner in full depth telescope style spec. 12B fiberboard box, for small arms primers containing anvils, when box is closed as specified.

73.119(m)(1); to provide spec. 1EX glass carboy for flammable liquids that are also oxidizing materials or corrosive; to remove unnecessary capacity limitation for spec. 1D carboy inasmuch as capacity is limited by the specification construction requirements in § 78.4.

73.125(a)(7); to permit the use of wire staples in the assembly or closure of spec. 12B fiberboard boxes, used for alcohol, when inside spec. 2U polyethylene container is completely enclosed in an inside box.

73.164(a)(2); to allow an increased gross weight for spec. 37A metal drum constructed of 22-gauge steel, in the service of chromic acid.

73.189(a)(3); to provide spec. 29 mailing tube with special inside composite packaging of a glass container in a metal can, for phosphorous, amorphous, red.

73.206(c)(3); to provide spec. MC 330 cargo tank for metallic sodium.

73.217(b); to provide plastic bottles as additional inside containers for calcium and lithium hypochlorite compounds, dry.

73.221(a)(9); same as § 73.125(a)(7) except box is used for liquid organic peroxides.

73.245(a)(21); same as § 73.125(a)(7) except box is used for acids and other corrosive liquids.

73.257(a)(14); to authorize the use of special type spec. 12B fiberboard box with plastic bags for electrolyte (acid) or corrosive battery fluid.

73.263(a)(23); same as § 73.125(a)(7) except box is used for hydrochloric acid or mixtures thereof and sodium chlorite solution.

73.272(f)(8); same as § 73.125(a)(7) except box is used for sulfuric acid.

73.277(a)(5); same as § 73.125(a)(7) except box is used for hypochlorite solutions.

73.302(a)(3); to identify spec. 2P as an inside container for compressed gases and to clarify that it must be shipped in an outside container.

73.306(a)(1); to properly cite spec. 4B240ET cylinder used for liquefied gases; to identify specs. 9, 40, and 41 as inside metal containers so as to clarify that they must be shipped in outside containers.

73.307(a)(2); to clarify that spec. 3HT cylinders used for nonliquefied gases must be shipped in strong outside containers.

73.308(a) table and Notes 15, 16; to clarify that specs. 3HT, 4D, 4DA, 9, 40, and 41 cylinders and spheres used for compressed gases must be shipped in strong outside containers.

73.310(a)(6); to rearrange wording so as to clarify that spec. 2P, used as fire extinguishers, must be shipped in an outside container.

73.312(a)(1); to identify specs. 9 and 41 as inside containers so as to clarify that they must be shipped in outside containers.

73.314(a) table and Note 19; to delete spec. 112A400-W tank car from liquefied petroleum gas having pressure not exceeding 225 psi. at 105° F., since use of uninsulated tank cars must be indicated at 115° F.; to indicate that nonflammable fluorinated hydrocarbons previously shipped as "Dispersant Gas, n.o.s." or "Refrigerant Gas, n.o.s." may continue to be transported in tank car tanks so stenciled although such gases must be properly described on shipping papers; to require tank car tanks containing Difluoroethane and Difluoromono-chloroethane, flammable gases, to be marked with the proper commodity name.

73.315(a) table Note 9; to make the marking requirements for cargo tanks transporting certain fluorinated hydrocarbons consistent with § 73.314(a) Note 19.

73.315(i) (1), (10); to require safety relief valves and fusible plugs on cargo tanks and portable tank containers to conform with the current accepted CGA standards.

73.346(a)(24); same as § 73.125(a)(7) except box is used for class B poisonous liquids.

73.392(e); to provide exemption from specification packaging requirements for magnesium-thorium alloys, in formed shapes.

73.394(c); to provide for labeling containers of magnesium-thorium alloys in formed shapes.

73.400(f); to specify that containers of explosive power devices, class B must be labeled when transported by rail express.

73.402(a) (10), (11), (12), (13), (14); paragraphs (a) (10), (11), (12), and (13) have been renumbered (11), (12), (13) and (14) respectively, in order to add new paragraph (a) (10) to provide for the labeling of magnesium-thorium alloys.

73.414(d); to provide a new label for radioactive materials such as magnesium-thorium alloys in formed shapes.

74.525(a); to delete reference to § 71.13(a)(3) which was canceled by previous order.

74.532(j); to permit the loading of large containers of radioactive material on flat cars or in gondola cars when such containers, because of design, cannot be loaded in closed cars; to rearrange paragraph structure for clarity and uniformity.
74.541(b); to specify the shipments of radioactive materials that necessitate placards on cars.

74.544(a)(6); to indicate that placards are not required for cars containing magnesium-thorium shipments bearing label described in § 73.414(d).

74.549(a)(6); to permit the attachment of placards by adhesive tape when application to metal surface is necessary.

74.584(a) table and Note 1; to specify that normal billing notations on shipping papers for radioactive material do not apply to shipments of magnesium-thorium alloys.

74.586(h) Note 1; to exempt shipments of magnesium-thorium alloys from certain loading and storage requirements in rail freight transportation.

74.589(b); to allow the removal of unnecessary placards from cars at the next terminal where train is classified instead of at the next inspection point.

75.655(j) Note 1; to exempt shipments of magnesium-thorium alloys from certain loading and storage requirements in rail express transportation.

77.819(b); to require certification to the Federal Aviation Agency in lieu of reference to the Civil Air Regulations.

77.823(a); to exempt shipments of magnesium-thorium alloys from motor vehicle marking requirements.

77.834(L); to authorize the loading of flammable liquids and gases in truck bodies or trailers equipped with heaters or automatic refrigeration apparatus under certain conditions.

77.835(g); to provide for the transportation of blasting caps with safety fuse or blasting caps with metal clad mild detonating fuse in the same vehicle with dynamite and similar explosives.

77.841(d) Note 1; to exempt shipments of magnesium-thorium alloys from certain loading and storage requirements in highway transportation.

78.131-6(a) table; footnotes 6, 7; to authorize a gross weight limitation increase for spec. 37A metal drums of 22 gauge steel per footnote 7; to permit drainage holes in outer metal drum when used in conjunction with spec. 2SL inside polyethylene container per footnote 6; to present table and footnotes in full for sake of clarity.

78.165-8(a) table; to authorize wire staples, of certain specification, for fastening tops to spec. 14 wooden boxes.

78.187-2(a)(3); to authorize additional methods to protect the inside plastic container from contact with wire clinches in spec. 16D wooden wirebound overwrap.

78.205-17(a)(2); to authorize closure of spec. 12B full depth telescope style fiberboard box by tape when used for small arms primers containing anvils.

78.205-37; to provide for special type of spec. 12B fiberboard box with inside plastic bags of not over 5 gallons total volumetric capacity for electrolyte or alkaline corrosive battery fluid.

78.209-8(a)(3); to authorize different outer and inner flap arrangement of spec. 12H fiberboard box.

78.218-13(b); to provide an alternate to compression test requirements for spec. 23G cylindrical fiberboard box.

[F.R. Doc. 60-10853; Filed, Nov. 23, 1960; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Fine Organics, Inc., 205 Main Street, Lodi, New Jersey, proposing the issuance of a regulation for the safe use of erucic acid amide as a slip agent, release agent, or antiblocking agent in polyethylene and polypropylene food-packaging materials.

Dated: November 18, 1960.

[SEAL] J. L. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-10916; Filed, Nov. 23, 1960; 8:46 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Minnesota Mining and Manufacturing Company, 900 Bush

Avenue, St. Paul 6, Minnesota, proposing the issuance of a regulation to provide for the use of the chromium III complex of *N*-ethyl-*N*-heptadecylfluorooctane sulfonyl glycine in the fabrication of paper products for animal food packaging.

Dated: November 18, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner
of Food and Drugs.

[F.R. Doc. 60-10917; Filed, Nov. 23, 1960; 8:46 a.m.]

Public Health Service

[42 CFR Part 73]

BIOLOGIC PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given of proposed rule making pursuant to section 351 of the Public Health Service Act, as amended (58 Stat. 702; 42 U.S.C. 262). The proposed revision provides principally more detailed standards for establishments and for record-keeping and record-retention, a revision and redesignation of tests presently included in the standards for safety, and amendments to either facilitate or achieve more effective administration of the regulatory provisions.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after publication in the FEDERAL REGISTER.

Inquiries may be addressed, and data, views and arguments may be presented by interested parties, in writing, in triplicate, to the Surgeon General, Public Health Service, Washington 25, D.C. All relevant material received not later than 60 days after publication of this notice in the FEDERAL REGISTER will be considered.

1. Amend § 73.1 by redesignating paragraph (y) as paragraph (aa).

2. Insert a new § 73.1(y) to read as follows:

(y) A "filling" refers to a group of final containers identical in all respects, which have been filled with the same product from the same bulk lot without any change in the filling assembly.

3. Insert a new § 73.1(z) to read as follows:

(z) "Process" refers to a manufacturing step that is performed on the product itself which may affect its safety, purity or potency, in contrast to such steps as testing or labelling which do not affect intrinsically the safety, purity or potency of the product.

4. Amend § 73.9 by inserting the following in the fourth sentence after the word "that" following the word "hearing": "(a) Public Health Service inspectors after reasonable efforts have been unable to gain access to an establishment or a location for the purpose of carrying out the inspection required under § 73.31, or that (b) manufacturing of products or of a product has been discontinued to an extent that a meaningful inspection cannot be made, or (c)".

5. Amend § 73.9 by inserting the following in the fifth sentence immediately

after "suspension" where it first appears: "unless assurances satisfactory to the Surgeon General that (a) access will be permitted or that (b) manufacturing will be resumed, have been provided or that (c)".

6. Insert the following in the fifth sentence of § 73.9 immediately after "notice of suspension,": "whichever is applicable,".

7. Amend § 73.35 to read as follows:

§ 73.35 Personnel.

(a) *Responsible head.* A person shall be designated as the responsible head who shall exercise control of the establishment in all matters relating to compliance with the provisions of this part, with authority to represent the manufacturer in all pertinent matters with the Division of Biologics Standards, and with authority to enforce or to direct the enforcement of discipline and the performance of assigned functions by employees engaged in the manufacture of products. The responsible head shall have an understanding of the scientific principles and the techniques involved in the manufacture of products or shall have readily available for advice one or more staff members having a thorough understanding of applicable scientific principles and techniques. The responsible head shall have the responsibility for the training of employees in manufacturing methods and for their being informed concerning the application of the pertinent provisions of this part to their respective functions.

(b) *Other personnel.* Personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing operations which they perform, the necessary training and experience relating to individual products, and adequate information concerning the application of the pertinent provisions of this part to their respective functions. Personnel shall include such professionally trained persons as are necessary to insure the competent performance of all manufacturing processes.

(c) *Restrictions on personnel*—(1) *Specific duties.* Persons having no duties to perform in connection with the manufacture of the product shall be excluded from rooms where the manufacture of products is in progress, if their presence can affect adversely the safety and purity of the product.

(2) *Sterile operations.* Personnel performing sterile operations shall wear clean or sterilized protective clothing and devices to the extent necessary to protect the product from contamination.

(3) *Pathogenic viruses and spore-bearing organisms.* Personnel working with viruses pathogenic for man or with spore-bearing microorganisms, and persons engaged in the care of animals or animal quarters, shall be excluded from areas where other products are manufactured, or such persons shall change outer clothing, including shoes, prior to entering such areas.

(4) *Live vaccine work areas.* Personnel may not enter a live vaccine manufacturing area after having worked with other infectious agents in any other laboratory during the same working day.

Only personnel actually concerned with propagation of the culture, production of the vaccine, and unit maintenance, shall be allowed in live vaccine manufacturing areas when active work is in progress. Casual visitors shall be excluded from such units at all times and all others having business in such areas shall be admitted only under supervision. Street clothing, including shoes, shall be replaced by suitable laboratory clothing before entering a live vaccine manufacturing unit. Personnel while caring for animals used in the manufacture of live vaccines shall be excluded from other animal quarters and from contact with other animals.

8. Renumber § 73.37 as § 73.36 and as thus renumbered, amend § 73.36 to read as follows:

§ 73.36 Physical establishment, equipment, animals and care.

(a) *Work areas.* All rooms and work areas where products are manufactured or stored shall be kept orderly, clean, free of dirt, dust, vermin and objects not required for manufacturing. Precautions shall be taken to avoid clogging of drainage systems. Precautions shall be taken to exclude extraneous infectious agents from manufacturing areas. Work rooms shall be well lighted and ventilated. The ventilation system shall be arranged so as to prevent the dissemination of microorganisms from one manufacturing area to another and to avoid other conditions unfavorable to the safety of the product. Filling rooms, and other rooms where open, sterile operations are conducted, shall be adequate to meet manufacturing needs and such rooms shall be constructed and equipped to permit thorough cleaning and to keep air-borne contaminants at a minimum. If such rooms are used for other purposes, they shall be cleaned and prepared prior to use for sterile operations. Refrigerators, incubators and warm rooms shall be maintained at temperatures within applicable ranges and shall be free of extraneous material which might affect the safety of the product.

(b) *Equipment.* Apparatus for sterilizing equipment and the method of operation shall be such as to insure the destruction of contaminating microorganisms. The effectiveness of the sterilization procedure shall be no less than that achieved by an attained temperature of 121.5° C. maintained for twenty minutes by saturated steam or by an attained temperature of 180° C. maintained for three hours with dry heat. Processing vessels, storage containers, filters, filling apparatus and other pieces of apparatus and accessory equipment, including pipes and tubing, shall be designed and constructed to permit thorough cleaning and, where possible, inspection for cleanliness. All surfaces that come in contact with products shall be clean and free of extraneous material. For products for which sterility is a factor, equipment shall be sterile unless sterility of the product is assured by subsequent procedures.

(c) *Laboratory and bleeding rooms.* Rooms used for the processing of products, including bleeding rooms, shall be

effectively fly-proofed and kept free of flies and vermin. Such rooms shall be so constructed as to insure freedom from dust, smoke and other deleterious substances and to permit thorough cleaning and disinfection. Rooms for animal injection and bleeding, and rooms for smallpox vaccine animals, shall be disinfected and be provided with the necessary water, electrical and other services.

(d) *Animal quarters and stables.* Animal quarters, stables and food storage areas shall be of appropriate construction, fly-proofed, adequately lighted and ventilated, and maintained in a clean, vermin-free and sanitary condition. No manure or refuse shall be so stored as to permit the breeding of flies on the premises, nor shall the establishment be located in close proximity to off-property manure or refuse storage capable of engendering fly breeding.

(e) *Restrictions on building and equipment use—*(1) *Work of a diagnostic nature.* Laboratory procedures of a clinical diagnostic nature involving materials that may be contaminated, shall not be performed in space used for the manufacture of products, except that manufacturing space which is used only occasionally may be used for diagnostic work provided neither viruses nor spore-bearing pathogenic microorganisms are involved and provided the space is thoroughly cleaned and disinfected before the manufacture of products is resumed.

(2) *Spore-bearing organisms for supplemental sterilization procedure control test.* Spore-bearing organisms used as an additional control in sterilization procedures may be introduced into areas used for the manufacture of products, only for the purposes of the test and only immediately before use for such purposes: *Provided*, That (i) the organism is not pathogenic for man and does not produce pyrogens or toxins, (ii) the organism does not grow at or below 37° C. within a two-week period, (iii) the culture is known to be pure, (iv) test cultures are not transferred to culture media in areas used for the manufacture of products, (v) the label on the container of each culture bears the name of the microorganism and the statement "Contains microbial spores. See directions for storage, use and disposition", and (vi) the container of each such culture is designed to withstand handling without breaking.

(3) *Work with spore-bearing organisms.* Except as provided in the previous paragraph, all work with spore-bearing microorganisms shall be done in an entirely separate building: *Provided*, That such work may be done in a portion of a building used in the manufacture of products not containing spore-bearing microorganisms if such portion is completely walled-off and is constructed so as to prevent contamination of other areas and if entrances to such portion are independent of the remainder of the building. All containers, apparatus and equipment used for spore-bearing microorganisms shall be permanently identified and reserved exclusively for use with those organisms. Materials destined for further manufacturing may

be removed from such an area only under conditions which will prevent the introduction of spores into other manufacturing areas.

(4) *Live vaccine manufacture.* Specific space which may be individual or multiple units shall be set aside for work with each live vaccine. Such work space shall be isolated either in a separate building or buildings, in a separate wing of a building, or in quarters at the blind end of a corridor so situated as to be an independent unit. The separate unit for live vaccine manufacture shall include adequate space and equipment for all manufacturing steps up to filling into final containers. Test procedures which potentially involve the presence of microorganisms other than the vaccine strains, or the use of tissue culture cell lines other than primary cultures, may not be conducted in live vaccine manufacturing areas.

(5) *Isolation of hog cholera.* All personnel, animals and equipment used in the manufacture of hog cholera serum or vaccine shall be kept entirely separate from personnel, animals and materials used in the manufacture of biological products for human use.

(f) *Animals used in manufacture—*(1) *Care of animals used in manufacturing.* Caretakers and attendants for animals used for the manufacture of products shall be sufficient in number and have adequate experience to insure adequate care. Animal quarters and cages shall be kept in sanitary condition. Animals on production shall be inspected daily to observe response to production procedures. Animals that become ill for reasons not related to production shall be isolated from other animals and shall not be used for production unless and until recovery is complete. Competent veterinary care shall be provided as needed.

(2) *Quarantine of animals.* Animals used in production shall have been kept under competent daily inspection and preliminary quarantine for a period of at least 7 days before use, or as otherwise provided in this part for specific products. Only healthy animals free from detectable communicable diseases shall be used for production. Particular care shall be taken during the quarantine periods to reject animals of the equine genus which may be infected with glanders and animals which may be infected with tuberculosis.

(3) *Immunization and bleeding of animals used as a source of products.* Horses used in the manufacture of biological products, except those which are under active immunization for the manufacture of tetanus antitoxin, shall receive injections of tetanus toxoid in such amounts and at such intervals as experience has shown adequate to insure immunity to tetanus. The toxin or other nonviable antigens used in the immunization of production animals shall be sterile. Such antigens containing viable microorganisms shall be free of extraneous contamination as determined by suitable tests prior to use. Injections shall not be made into horses within six inches of bleeding site. Horses shall not be bled for manufacturing purposes

while showing persistent general reaction or local reaction near the site of bleeding. Blood shall not be used for manufacturing if it was drawn within 5 days of injecting the animal with viable micro-organisms. Animals shall not be bled for manufacturing purposes when they have an intercurrent disease. Blood intended for use as a source of a biological product shall be collected in clean, sterile and pyrogen-free containers.

(4) *Smallpox vaccine production animals.* Animals used for the manufacture of smallpox vaccine shall be thoroughly cleaned with soap and water at the beginning of the quarantine and at its conclusion. The animals shall not be vaccinated in areas most likely to be contaminated with feces.

(5) *Reporting of certain diseases.* In cases of actual or suspected infection with foot and mouth disease, glanders, tetanus, anthrax, gas gangrene, equine infectious anemia, equine encephalomyelitis, or any of the pox diseases among animals intended for use or used in the manufacture of products, the manufacturer shall immediately notify the Director, Division of Biologics Standards.

(g) *Filling procedures.* Filling procedures shall be such as will not affect adversely the safety, purity or potency of the product. A product in a bulk container from which transfer is made in measured amounts into final containers, shall be filled into final containers in one continuous operation, except that if the continuity is interrupted, an additional bulk sterility test shall be performed using a bulk sample taken after the interruption of continuity and before filling is resumed.

(h) *Containers.* All final containers shall be designed to permit hermetic sealing, shall be clean, free of surface solids and leachable contaminants and of material that will not render the contents less suitable for the intended use during the dating period. Final containers for products intended for use by injection shall be in addition, sterile, free from pyrogens, colorless and transparent enough to permit visual examination of the contents under normal light.

(i) *Closures for containers.* All closures shall be clean and shall not cause the product to become less suitable for its intended use during the dating period. Closures of final containers for products intended for use by injection shall be in addition, sterile, free from pyrogens, surface solids and leachable contaminants.

9. Renumber § 73.36 as § 73.37 and as thus renumbered amend § 73.37 to read as follows:

§ 73.37 Records.

(a) *Maintenance of records.* Records shall be made, concurrently with the performance, of each step in the manufacture of products, in such a manner that at any time successive steps in the manufacture and distribution of any lot may be traced by an inspector. Such records shall be legible and indelible, shall

identify the person immediately responsible, shall include dates of the various steps, and be as detailed as necessary for clear understanding of each step by one experienced in the manufacture of products.

(b) *Records retention*—(1) *General.* Records shall be retained for such interval beyond the expiration date as is necessary for the individual product, to permit the return of any clinical report of unfavorable reactions. The retention period shall be no less than five years after the record is made or six months after the expiration date for the individual product whichever is longer.

(2) *Records of recall.* Complete records shall be maintained pertaining to the recall from distribution of any product upon notification by the Director, Division of Biologics Standards, to recall for failure to conform with the standards prescribed in the regulations of this part, deterioration of the product or any other factor by reason of which the distribution of the product would constitute a danger to health.

(3) *Suspension of requirement for retention.* The Director, Division of Biologics Standards, may authorize the suspension of the requirement to retain records of a specific manufacturing step upon a showing that such records no longer have significance for the purpose for which they were made: *Provided*, That a summary of such records shall be retained.

(c) *Records of sterilization of equipment and supplies.* Records relating to the mode of sterilization, date, duration, temperature and other conditions relating to each sterilization of equipment and supplies used in the manufacture of products shall be made by means of automatic recording devices or by means of a system of recording which gives equivalent assurance of the accuracy and reliability of the record. Such records shall be maintained in a manner that permits an identification of the product and the particular manufacturing processes to which the sterilizations relate.

(d) *Animal necropsy records.* A necropsy record shall be kept on each animal from which a biological product has been obtained and which dies or is sacrificed while being so used.

(e) *Records in case of divided manufacturing responsibility.* If two or more establishments participate in the manufacture of a product, the records of each such establishment must show plainly the degree of its responsibility. In addition, each participating manufacturer shall furnish to the manufacturer who prepares the product in final form for sale, barter or exchange, a copy of all records relating to the manufacturing operations performed by such participating manufacturer insofar as they concern the safety, purity and potency of the lots of the product involved, and the manufacturer who prepares the product in final form shall retain a complete record of all the manufacturing operation relating to the product.

10. Redesignate § 73.36(e) as § 73.38 and as thus redesignated, amend § 73.38 to read as follows:

§ 73.38 Retention samples.

Manufacturers shall retain for a period of at least six months after the expiration date, a quantity of representative material of each lot of each product, sufficient for examination and testing, except Whole Blood (Human), Packed Red Blood Cells, Single Donor Plasma, and Allergenic extracts prepared to physician's prescription. Samples so retained shall be selected at random from either final container material, or from bulk and final containers, provided they include at least one final package of each filling of each lot of the product as intended for distribution. Such sample material shall be stored at temperatures and under conditions which will maintain the identity and integrity of the product. Samples retained as required in this section shall be in addition to samples required in this part of specific products to be submitted to the Division of Biologics Standards. Exceptions may be authorized by the Director, Division of Biologics Standards, when the lot yields relatively few final containers and when such lots are prepared by the same method in large numbers and in close succession.

11. Amend § 73.72 to read as follows:

§ 73.72 Safety.

In addition to safety tests prescribed in this part for specific products, an innocuity test shall be performed on final container material, for each filling of each lot, either after the labels have been affixed to the final container, or affixed, both outside and inside, to the multiple container storage receptacle just prior to its sealing for storage purposes. Exceptions to this procedure may be authorized by the Director, Division of Biologics Standards, when more than one lot is processed each day. The innocuity test shall consist of the par-enteral injection of the maximum volume tolerated into each of two mice weighing approximately 20 gms. each and into each of two guinea pigs weighing approximately 350 gms. each. No more than 0.5 ml. need be inoculated into each mouse and no more than 5.0 ml. need be inoculated into each guinea pig. After injection the animals shall be observed for a period of no less than seven days and if neither significant symptoms nor death results during the observation period, the product meets the requirements for innocuity. If more than one test is performed, the results of all tests shall be considered in determining whether the requirements for innocuity have been met. Variations of this test, either in the volume injected or in the species of test animal used shall be made whenever required because of the human dose level demanded of the product or because of any individual demands of the product itself.

12. Redesignate present § 73.75 as § 73.76 and present § 73.72(b) as § 73.75 and as thus redesignated amend § 73.75 to read as follows:

§ 73.75 Identity.

The contents of a final container of each filling of each lot shall be tested

for identity after all labelling operations shall have been completed. The identity test shall be specific for each product in a manner that will adequately identify it as the product designated on final container and package labels and circulars. Identity may be established either through the physical or chemical characteristics of the product, inspection by microscope or microscopic methods, specific cultural tests, or in vitro or in vivo immunological tests.

13. Amend § 73.76 as redesignated to read as follows:

§ 73.76 Requests for samples and protocols; official release.

Samples of any lot of any licensed product, together with the protocols showing results of applicable tests, may at any time be required to be sent to the Director, Division of Biologics Standards. Upon notification by the Director, Division of Biologics Standards, a manufacturer shall not distribute a lot of a product until the lot is released by the Director, Division of Biologics Standards: *Provided*, That the Director shall not issue such notification except when deemed necessary for the safety, purity or potency of the product.

14. Redesignate the present § 73.76 as § 73.78 and the present § 73.77 as § 73.79 and insert a new § 73.77 to read as follows:

§ 73.77 Cultures.

(a) *Storage and maintenance.* Cultures used in the manufacture of products shall be stored in a secure and orderly manner, at a temperature and by a method that will retain the initial characteristics of the organism and insure freedom from contamination and deterioration. Precautions shall be taken in the handling of bacterial, rickettsial and viral cultures to avoid contamination of other products in the course of manufacture and storage. Whenever practicable, cultures used for the manufacture of products shall be dried from the frozen state under high vacuum and stored in flame-sealed, clearly labelled ampules.

(b) *Identity and verification.* Each culture shall be clearly identified as to source strain. A complete identification of the strain shall be made for each new stock culture preparation. Primary and subsequent seed lots shall be identified by lot number and date of preparation. Periodic tests shall be performed to verify the integrity of the strain characteristics and freedom from extraneous organisms. Results of all periodic tests for verification of cultures and determination of freedom from extraneous organisms shall be made and retained.

15. Delete the present § 73.79 and redesignate the present §§ 73.78, 73.80, 73.81, 73.82 and 73.83 as §§ 73.80, 73.81, 73.82, 73.83 and 73.84 respectively.

16. Amend § 73.83 as redesignated (present § 73.82) to read as follows:

§ 73.83 Expiration date; dating period; date of manufacture.

The expiration date for each product shall be the end of the dating period. The dating period of a product kept at

the manufacturer's recommended storage temperature, shall begin on the date of manufacture, which shall be determined as follows:

(a) For products for which an official standard of potency exists or which are subject to official potency tests, the date of initiation by the manufacturer of the last valid potency test.

(b) For products for which no official potency test exists or which are not subject to official potency tests, (1) the date of removal from animals, (2) the date of extraction, (3) the date of solution, or (4) the date of cessation of growth, whichever is applicable.

17. Amend § 73.32(g) by substituting "73.37" for "73.36".

18. Amend § 73.104(a) by revising the first sentence to read as follows:

(a) *Final container tests.* Tests shall be made on final containers for safety, sterility and identity in accordance with §§ 73.72, 73.73 and 73.75 respectively.
* * *

19. Amend the first sentence of § 73.104(e) by substituting "73.83(a)" for "73.82(a)".

20. Amend § 73.114(b) to read as follows:

(b) *Final container tests.* Tests shall be made on final containers for safety, sterility and identity, in accordance with §§ 73.72, 73.73 and 73.75 respectively.

21. Amend the first sentence of § 73.114(h) by substituting "73.83(a)" for "73.82(a)".

22. Amend § 73.302(b) by substituting "§§ 73.35 and 73.36" for "§ 73.37".

23. Amend the first sentence of § 73.94 by inserting "glass" immediately preceding "ampoules" and by deleting "prepared from glass of the quality prescribed in § 73.79".

24. Amend § 73.16 by substituting "manufacturing" for "processing" in the title, by substituting "manufacturing" for "processing" in the first sentence, and by substituting "partial manufacturing" for "processing" in the last sentence.

25. Amend § 73.32(d) by substituting "procedures" for "processes".

26. Amend § 73.53 by substituting "manufacture of a product" for "manufacturing process".

27. Amend § 73.102(b)(2) by substituting "procedure" for "process" in the first sentence.

28. Amend § 73.105 by substituting "procedure" for "process".

29. Amend the title of § 73.303 by substituting "Testing" for "Processing".

30. Amend § 73.304(a) by substituting "All manufacturing" for "The entire processing".

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply Sec. 351, 58 Stat. 702; 42 U.S.C. 262)

Dated: November 3, 1960.

[SEAL] L. E. BURNES,
Surgeon General.

Approved: November 18, 1960.

EDWARD FOSS WILSON,
Acting Secretary.

[F.R. Doc. 60-10949; Filed, Nov. 23, 1960;
8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 601]

[Airspace Docket No. 60-NY-43]

CONTROL AREAS

Modification and Revocation of Extensions

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 601.1047, 601.1345 and 601.1346 of the regulations of the Administrator, the substance of which is stated below.

The Bangor, Maine, control area extension is presently designated within a 25-mile radius of Dow AFB, Bangor, Maine. The Federal Aviation Agency has under consideration modification of this control area extension to include the area bounded on the east by the United States/Canadian border and a line extending from latitude 45°37'30" N., longitude 67°39'00" W., via latitude 44°45'00" N., longitude 67°30'00" W., to latitude 44°25'00" N., longitude 67°30'00" W.; on the southeast by a line extending from latitude 44°25'00" N., longitude 67°30'00" W., via latitude 44°18'00" N., longitude 68°00'00" W., to latitude 43°45'00" N., longitude 69°15'00" W.; on the southwest by the northeast boundaries of the Brunswick, Maine, control area extension (601.1324), to the eastern boundary of VOR Federal airway No. 39; on the northwest by the eastern boundary of VOR Federal airway No. 39 to its intersection with the eastern boundary of VOR Federal airway No. 471 and the 130° True radial of the Millinocket, Maine, VOR, thence via the eastern boundary of VOR Federal airway No. 471 to the United States/Canadian border, excluding the portion which would coincide with the De Blois, Maine, Restricted Area (R-397). This modified control area extension would provide protection for heavily loaded aircraft conducting prescribed departure procedures at Dow AFB. In addition, it would provide protection for aircraft being radar vectored to the Bar Harbor, Maine, radio beacon preparatory to executing prescribed ADF instrument approach procedures to Dow AFB. This control area extension would also provide protection for aircraft conducting prescribed instrument approach and departure procedures for Bar Harbor and Rockland, Maine, airports.

Concurrently with this action, the Federal Aviation Agency proposes to revoke the Bar Harbor, Maine (§ 601.1346) and the Rockland, Maine (§ 601.1345) control area extensions as they would be totally encompassed by the modified Bangor control area extension.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER

PROPOSED RULE MAKING

will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C. on November 18, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-10926; Filed, Nov. 23, 1960;
8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 11959]

CERTAIN FIXED, LAND MOBILE AND MARITIME MOBILE BANDS; RE- ALLOCATION

Order Extending Time for Filing Comments

In the matter of amendment of Part 2 of the Commission's rules and regulations; reallocation of certain fixed, land mobile and maritime mobile bands between 25 and 470 Mc.

The Commission has before it for consideration a request from the American Waterways Operators, Inc., to extend the time for filing comments in the above proceeding to December 30, 1960.

It appearing, that additional time is required to permit the geographically dispersed members of the trade association to coordinate their views, formulate policy and opinions in respect to this matter of importance to the marine industry on the inland waterways; and

It further appearing, that the public interest will be served by providing additional time to enable interested parties to submit comments and reply comments;

It is ordered, This 17th day of November 1960, pursuant to section 0.322 (b) of the Commission's statement of delegations of authority, that the time for filing comments in this proceeding is extended to December 30, 1960, and the time for filing reply comments is extended to January 16, 1961.

Released: November 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10959; Filed, Nov. 23, 1960;
8:53 a.m.]

[47 CFR Part 3]

[Docket No. 13340; FCC 60-1385]

INTERIM POLICY ON VHF TELEVI- SION CHANNEL ASSIGNMENTS; TELEVISION ENGINEERING STAND- ARDS

Order Extending Time for Filing Reply Comments

In the matter of interim policy on VHF television channel assignments and amendment of Part 3 of the rules concerning television engineering standards.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 16th day of November 1960;

The Commission has before it for consideration the requests of the Association of Maximum Service Telecasters, Inc. (filed November 15, 1960), the Association of Federal Communications Consulting Engineers (filed November 15, 1960), Dempsey and Koplovitz attorneys representing a number of broadcast licensees (filed November 16, 1960) and the requests of a number of television licensees (filed November 15, 16, 1960),¹ together with supporting statements from counsel for other interested parties² for an extension of time from November 28, 1960, to December 30, 1960, in which to file reply comments in the above-entitled rule making proceeding.

These parties urge that the present expiration date for filing reply comments does not provide sufficient time to make it practically possible, with due diligence, to complete and submit meaningful and helpful reply comments, in view of the substantial time required for the mere accumulation of the voluminous number of pleadings filed; the numerous proposals and detailed engineering studies contained therein requiring study and evaluation, and the workload of the consulting engineers with whom the replies of individual stations have to be coordinated.

We are persuaded by the representations of these parties that the requested extension of time will contribute to the

¹ Gross Telecasting, Inc., Lansing, Michigan (WJIM-TV); Mt. Washington TV, Inc., Poland Spring, Maine (WMTW-TV); Peoples Broadcasting Corporation, Sioux City, Iowa (KVTV); Triangle Broadcasting Corp., Winston-Salem-Greensboro, North Carolina (WSJS-TV); Gibraltar Enterprises, Inc., Erie, Pennsylvania (WICU-TV); KTAR Broadcasting Company, Phoenix, Arizona (KVAR); Beaumont Broadcasting Corporation, Beaumont, Texas (KFDM-TV); The Tribune Company, Tampa, Florida (WFLA-TV); Maine Radio and Television Company, Portland, Maine (WCSH-TV); General Electric Company, Schenectady, N.Y. (WRGB); Westinghouse Broadcasting Company, Inc., WLAC-TV, Inc., Nashville, Tennessee (WLAC-TV).

² Dow, Lohnes and Albertson; Kirkland, Ellis, Hodson, Chaffetz & Masters.

filing of more thorough and helpful replies to aid us in reaching a decision on the important and complex proposals before us in this proceeding and would be, therefore, in the public interest.

Accordingly, it is ordered, That the requests of the Association of Maximum Service Telecasters, Inc., the Association of Federal Communications Consulting Engineers, Dempsey and Koplovitz, and the licensees mentioned in footnote 1 for an extension of time are granted, and that the time for filing reply comments in this proceeding is extended from November 28, 1960, to December 30, 1960.

Released: November 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10960; Filed, Nov. 23, 1960;
8:53 a.m.]

[47 CFR Part 3]

[Docket Nos. 13374, 13375]

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS; MICHIGAN, MASSACHUSETTS, AND RHODE ISLAND

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 3.606 Table of assignments, Television Broadcast Stations (Grand Rapids, Cadillac, Traverse City and Alpena, Michigan), Docket No. 13374; amendment of § 3.606 Table of assignments, Television Broadcast Stations (New Bedford, Mass., Providence, R.I.), Docket No. 13375.

1. In an Order adopted on November 16, 1960, in Docket No. 13340 (Interim Policy on VHF Television Channel Assignments and Amendment of Part 3 of the rules concerning Television Engineering Standards) the Commission extended the time for filing reply comments from November 28, 1960, to December 30, 1960. Since the proposals under consideration in the above-entitled proceedings bear a relationship to those under consideration in Docket No. 13340 in that they involve the assignment of VHF channels at substandard separations under conditions set out for consideration in Docket No. 13340, the Commission, in keeping with its past practice, believes that the closing date for filing reply comments in these two proceedings should likewise be extended from November 16, 1960, to December 30, 1960, as proposed by the Association of Maximum Service Telecasters in the extension request it filed in Docket No. 13340.

2. Accordingly, it is ordered, This 17th day of November 1960, that the time for filing reply comments in Docket Nos. 13374 and 13375 is extended from November 28, 1960, to December 30, 1960.

Released: November 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10962; Filed, Nov. 23, 1960;
8:53 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management COLORADO

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

NOVEMBER 17, 1960.

1. Pursuant to authority delegated by B.L.M. Order No. 541 dated April 21, 1954 (19 F.R. 2473), as amended, notice is hereby given that the plats of Dependent Resurvey and Extension Surveys in Townships 35 and 36 N., Range 20 West, New Mexico Principal Meridian, Colorado, accepted September 14, 1959, including lands hereinafter described, will be officially filed in the Land Office, Denver, Colorado, effective at 10:00 a.m., on December 23, 1960.

Township 35 N., Range 20 W., N.M.P.M., Colorado,

Sec. 10: Lots 5, 6, 7, 8;

Sec. 15: Lots 5, 6, 7, 8;

Sec. 22: Lots 5, 6, 7, 8;

Sec. 27: Lots 5, 6, 7, 8;

Sec. 34: Lots 5, 6, 7, 8.

The areas described aggregate 1,022.23 acres of public land.

Township 36 N., Range 20 W., N.M.P.M., Colorado,

Sec. 10: Lots 8, 9, 16, 17;

Sec. 15: Lots 5, 6, 7, 8;

Sec. 22: Lots 5, 6, 7, 8;

Sec. 27: Lots 5, 6, 7, 8.

The areas described aggregate 635.69 acres of public land.

2. The lands described in Paragraph 1, above, are opened to application, location, selection, and petition as outlined in Paragraph 4, below. No application for these lands will be allowed under the homestead, desert land, small tract, or other nonmineral public land law, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

3. The lands described are in southwestern Colorado, along the Colorado-Utah state line, about 25 miles west of Cortez, Colorado. Elevation is about 5,200 feet above sea level. The rough topography has shallow rocky soils that support only desert vegetation of scrubby juniper trees, greasewood and similar plants adapted to the rainfall of less than ten inches annually. None of the land is suitable for farming.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described in Paragraph 1 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the

Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws, other than those coming under Paragraph (1) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m. on March 24, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a.m. on March 24, 1961.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims, must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. Inquiries concerning these lands shall be addressed to the Manager, Colorado Land Office, 383 New Custom House, Post Office Box 1018, Denver 1, Colorado.

LOWELL M. PUCKETT,
State Supervisor.

NOVEMBER 17, 1960.

[F.R. Doc. 60-10908; Filed, Nov. 23, 1960;
8:45 a.m.]

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

NOVEMBER 16, 1960.

Notice of an application Serial No. Sacramento 047384, for withdrawal and reservation of lands was published as Federal Register Document No. 57-7918 on page 7716 of the issue for September 27, 1957. The applicant agency has cancelled its application insofar as it involved the land described below. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such land will be at 10:00 a.m. on December 16, 1960, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of partial termination are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

RECREATION AREA

Pfeiffer Beach

T. 19 S., R. 1 E.,

Sec. 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described above aggregates 40 acres in the Los Padres National Forest.

WALTER E. BECK,

Manager,

Land Office, Sacramento.

[F.R. Doc. 60-10909; Filed, Nov. 23, 1960;
8:45 a.m.]

ALASKA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

NOVEMBER 16, 1960.

1. Plat of Survey of the lands described below will be officially filed in the Juneau Land Office, Juneau, Alaska effective at 10:00 a.m., December 22, 1960:

COPPER RIVER MERIDIAN

Township 28 South, Range 54 East,

Sec. 15: S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 21: Lots 1, 2.

The area described contains 215.68 acres of public lands.

2. These lands lie approximately 34 miles northwest of Haines, Alaska. Access is provided by the Haines Highway which crosses section 21 and passes below section 15. The lands lying in section 15 are approximately 500 feet to 950 feet above the highway. Going in an easterly direction, the lands drop rapidly into Big Boulder Creek and then ascend 870 feet to the eastern corner of the section. This rugged area has barren and talus slopes, and areas covered with spruce, hemlock, birch, and dense stands of alder.

The lands in section 21 reach from the Klehini River to an elevation of over 900 feet and consist of gravel river bottom covered with thick brush to the timbered covered slope of the mountain.

None of these lands are suited to agriculture development with the exception of along the river bank where a remote chance may exist. Very little soil mantle exists for the area is young geologically and has not had sufficient time to produce sufficient organic material in combination with the decomposed rock to make a usable soil.

3. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the non-mineral public land laws and applications and offers under the min-

eral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraph (1) above and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m. March 24, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining law beginning at 10:00 a.m., on March 24, 1961.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. Applications for these lands, which shall be filed in the Land Office at Juneau, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the Homestead and Homestead Laws shall be governed by the regulations contained in Parts 64, 65, and 166 of Title 43 of the Code of Federal Regulations and applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that Title.

6. Inquiries concerning these lands shall be addressed to the Manager, Juneau Land Office, P.O. Box 2511, Juneau, Alaska.

WARNER T. MAY,
Acting Manager.

[F.R. Doc. 60-10939; Filed, Nov. 23, 1960;
8:49 a.m.]

ALASKA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

NOVEMBER 16, 1960.

1. Plat of Survey of the lands described below will be officially filed in the Juneau Land Office, Juneau, Alaska effective at 10:00 a.m., December 22, 1960:

COPPER RIVER MERIDIAN

Township 29 South, Range 57 East,
Sec. 9: N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$, Lots 1, 2, 3, 4, 5, 6.

The area described contains 424.32 acres of public lands.

2. These lands lie approximately 16 miles northwest of Haines, Alaska. The Haines Highway extends through the south and west halves of the section. The majority of this land is an alluvial fan which extends from about 325 feet up the mountain to the shore of the Chilkat River. The land gradually ascends towards the mountains where it rises sharply over bare talus slopes. A series of streams and small creeks flow in a southwesterly direction through the section. The land in general is covered with second growth birch, cottonwood and spruce timber. The land in the river bottom is covered with dense underbrush of alder and berry bush, with spruce and cottonwood timber.

The soil is grano-diorite on the entire outwash with little or no organic material present. The area is strewn with large boulders and other broken rock material. The soil along the river bank is better due to depositing of silt from high water.

The soil is extremely poor. The land is either extremely wet or extremely dry, thus discouraging for a long time vegetation other than cottonwood and associated species. The land lying along the highway cannot be used for any form of agriculture in its present state and without the expenditure of large sums of money and a great deal of effort.

3. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraph (1) above and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m. on March 24, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining law, beginning at 10:00 a.m., on March 24, 1961.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. Applications for these lands, which shall be filed in the Land Office at Juneau, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the Homestead and Homestead Laws shall be governed by the regulations contained in Parts 64, 65 and 166 of Title 43 of the Code of Federal Regulations and applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that Title.

6. Inquiries concerning these lands shall be addressed to the Manager, Juneau Land Office, P.O. Box 2511, Juneau, Alaska.

WARNER T. MAY,
Acting Manager.

[F.R. Doc. 60-10940; Filed, Nov. 23, 1960;
8:49 a.m.]

[Notice 21]

ALASKA

Notice of Filing of Alaska Protraction Diagrams, Fairbanks Land District

NOVEMBER 17, 1960.

In Federal Register Document 60-10322, appearing on Page 10556 of the issue for November 3, 1960, the following changes should be made:

Line 6 of the first paragraph should read: " * * * CFR 192.42(c), (24 F.R. 4140, May 22, 1959) * * *".

The listings shown under Alaska Protraction Diagrams (Unsurveyed) should read as follows:

COPPER RIVER MERIDIAN—FOLIO No. 2

Approved August 11, 1960

Sheet
No.

2. Ts. 13 through 16 N., Rs. 17 through 20 E.

COPPER RIVER MERIDIAN—FOLIO No. 7

Approved September 20, 1960

Sheet
No.

1. Ts. 1 through 4 S., Rs. 21 through 24 E.

2. Ts. 1 through 4 S., Rs. 19 through 20 E.

Cover sheet showing Location Map and Index.

No changes or corrections in last paragraph.

KEITH CORRIGALL,
Acting Manager.

[F.R. Doc. 60-10941; Filed, Nov. 23, 1960;
8:49 a.m.]

[Notice 22]

ALASKA**Notice of Filing of Alaska Protraction Diagrams, Fairbanks Land District**

NOVEMBER 17, 1960.

Notice is hereby given that the following protraction diagrams have been officially filed of record in the Fairbanks Land Office, 516 Second Avenue, Fairbanks, Alaska. In accordance with 43 CFR 192.42(c), (24 F.R. 4140, May 22, 1959) oil and gas offers to lease lands shown in these protracted surveys, filed 30 days after publication of this notice in the FEDERAL REGISTER, must describe the lands only according to the Section, Township, and Range shown on the approved protracted surveys. The protraction diagrams are also applicable for all other authorized uses.

ALASKA PROTRACTION DIAGRAMS (UNSURVEYED)**KATEEL RIVER MERIDIAN—FOLIO No. 16**

APPROVED SEPTEMBER 9, 1960

Sheet
No.

1. Ts. 21 through 24 S., Rs. 17 through 20 W.
2. Ts. 21 through 22 S., R. 21 W.
3. Ts. 26 through 29 S., Rs. 29 through 32 W.
4. Ts. 26 through 29 S., Rs. 25 through 28 W.
5. Ts. 26 through 29 S., Rs. 21 through 24 W.
6. Ts. 25 through 29 S., Rs. 17 through 20 W.

Cover sheet showing Location Map and Index.

KATEEL RIVER MERIDIAN—FOLIO No. 19

APPROVED SEPTEMBER 13, 1960

Sheet
No.

1. Ts. 17 through 20 S., Rs. 29 through 30 E.
2. Ts. 17 through 20 S., Rs. 25 through 28 E.
3. Ts. 17 through 20 S., Rs. 21 through 24 E.
4. Ts. 17 through 20 S., Rs. 17 through 20 E.
5. Ts. 21 through 24 S., Rs. 17 through 20 E.
6. Ts. 21 through 24 S., Rs. 21 through 24 E.
7. Ts. 21 through 24 S., Rs. 25 through 28 E.
8. Ts. 21 through 24 S., Rs. 29 through 30 E.
9. Ts. 25 through 28 S., Rs. 29 through 31 E.
10. Ts. 25 through 28 S., Rs. 25 through 28 E.
11. Ts. 25 through 28 S., Rs. 21 through 24 E.
12. Ts. 25 through 28 S., Rs. 17 through 20 E.

Cover sheet showing Location Map and Index.

KATEEL RIVER MERIDIAN—FOLIO No. 4

APPROVED SEPTEMBER 14, 1960

Sheet
No.

1. Ts. 33 through 34 N., Rs. 17 through 20 W.
2. Ts. 33 through 34 N., Rs. 21 through 24 W.
3. Ts. 33 through 34 N., Rs. 25 through 28 W.
4. Ts. 33 through 34 N., Rs. 29 through 32 W.
5. Ts. 33 through 34 N., Rs. 33 through 35 W.
6. Ts. 30 through 32 N., Rs. 29 through 32 W.
7. Ts. 29 through 32 N., Rs. 25 through 28 W.
8. Ts. 29 through 32 N., Rs. 21 through 24 W.
9. Ts. 29 through 32 N., Rs. 17 through 20 W.
10. Ts. 25 through 28 N., Rs. 17 through 20 W.
11. Ts. 25 through 28 N., Rs. 21 through 24 W.
12. Ts. 26 through 28 N., Rs. 25 through 28 W.
13. Ts. 21 through 24 N., Rs. 21 through 24 W.
14. Ts. 21 through 24 N., Rs. 17 through 20 W.
15. Ts. 17 through 20 N., Rs. 17 through 20 W.
16. Ts. 19 through 20 N., Rs. 21 through 23 W.

Cover sheet showing Location Map and Index.

Copies of these diagrams are for sale at one dollar (\$1.00) per sheet and may be obtained from the Fairbanks Land Office, Bureau of Land Management,

mailing address: 516 Second Avenue, Fairbanks, Alaska.

KEITH H. CORRIGALL,
Acting Manager.

[F.R. Doc. 60-10942; Filed, Nov. 23, 1960;
8:49 a.m.]

[Document No. 229]

ARIZONA**Notice of Proposed Withdrawal and Reservation of Lands**

The Department of Agriculture, U.S. Forest Service, has filed an application, Serial No. AR-028146, for the withdrawal of lands described below from all forms of appropriation, including location and entry under the general mining laws, subject to valid existing claims. The applicant desires the lands for protection of watersheds for the municipal water supply of the City of Flagstaff.

For a period of thirty (30) days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of Interior, P.O. Box 148, Phoenix, Arizona.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN

- T. 22 N., R. 7 E.,
Sec. 1: SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 2: Lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 3: Lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (All);
Sec. 4: N $\frac{1}{2}$ (Unsurveyed), SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 5: Lots 1, 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9: E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 10: All;
Sec. 11: All;
Sec. 12: W $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 13: NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14: N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15: All;
Sec. 16: E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 21: E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 22: All;
Sec. 23: W $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 26: Lot 1;
Sec. 27: W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28: All;
Sec. 29: E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 33: N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34: N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 23 N., R. 7 E.,
Sec. 20: NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 21: SE $\frac{1}{4}$, W $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 22: Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 26: S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 27: Lots 1, 2, 3, 4, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$, (All);
Sec. 28: All;
Sec. 29: E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 32: Lots 1, 2, 3, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 33: Lots 1, 2, 3, 4, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, (All);
Sec. 34: Lots 1, 2, 3, 4, 5, 6, 7, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, (All);

- Sec. 35: Lots 3, 4, 5, 6, 7, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, (All);
Sec. 36: S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The above described lands are located within the Coconino National Forest.

The area described totals approximately 15,094.92 acres.

Dated: November 18, 1960.

E. I. ROWLAND,
State Supervisor.

[F.R. Doc. 60-10943; Filed, Nov. 23, 1960;
8:50 a.m.]

National Park Service

[Order 27]

CHIEF OF LANDS

Delegation of Authority To Enter Into Contract for Purchase of Bennett Hotel Property, at Castillo de San Marcos National Monument, Florida

The Chief of Lands is authorized to enter into a contract on behalf of the United States for the purchase, at a price not to exceed \$250,000, of the Bennett Hotel property at Castillo de San Marcos National Monument, Florida.

(Secretary's Order No. 2640, sec. 6 as amended, 24 F.R. 3767, and sec. 99, 19 F.R. 1327; 5 U.S.C. sec. 22; Reorgan. Plan No. 3 of 1950, 5 U.S.C. sec. 133z-15, footnote)

Dated: November 18, 1960.

HILLORY A. TOLSON,
Acting Director.

[F.R. Doc. 60-10910; Filed, Nov. 23, 1960;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE**Commodity Stabilization Service****HAWAIIAN SUGARCANE****Notice of Hearing on Prices and Designation of Presiding Officers**

Pursuant to the authority contained in section 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to fair price proceedings (7 CFR 802.1 et seq.), notice is hereby given that a public hearing will be held as follows:

At Hilo, on the Island of Hawaii, in the Auditorium of the Hilo Electric Light Company, Limited, on December 16, 1960 at 9:00 a.m.

The purpose of the hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of section 301(c)(2) of said Act, fair and reasonable prices or rates for the 1961 crop of Hawaiian sugarcane to be paid, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payments under the said Act.

The hearing after being called to order at the time and place mentioned herein,

may be continued from day to day within the discretion of the presiding officers, and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearing by the presiding officers.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and present appropriate data in regard to the foregoing matter.

Tom O. Murphy, A. A. Greenwood, Charles F. Denny, and Will N. King are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Issued this 18th day of November 1960.

LAWRENCE MYERS,
Director, Sugar Division.

[F.R. Doc. 60-10958; Filed, Nov. 23, 1960;
8:52 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Notice of Hearing

On November 15, 1960, Yankee Atomic Electric Company (Yankee) filed a motion to reconvene a hearing in this proceeding in accordance with the order of the Commission remanding this proceeding for further consideration with respect to the scope of the technical specifications and related matters.

On November 18, 1960, the Staff of the Commission filed a concurrence in the aforesaid motion.

Wherefore, it is ordered:

A. A hearing in this proceeding shall convene at 10:00 a.m., e.s.t., on December 12, 1960, in the Auditorium of the Headquarters Building of the Atomic Energy Commission, Germantown, Md., for consideration of possible amendment to Yankee's License No. DPR-3, and for consideration of the scope of the technical specifications in Yankee's License No. DPR-3, and related matters.

B. Persons seeking to intervene or to otherwise participate in this proceeding may file a petition or statement for consideration in accordance with § 2.705 of the rules of practice issued by the United States Atomic Energy Commission.

Issued: November 18, 1960, at Germantown, Md.

SAMUEL W. JENSCH,
Presiding Officer.

[F.R. Doc. 60-10905; Filed, Nov. 23, 1960;
8:45 a.m.]

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order 684]

DELEGATION OF AUTHORITY OF OFFICERS TO ACT AS GOVERNOR

NOVEMBER 16, 1960.

1. In the event that the Governor is absent or is not able to perform the

duties of his office for any other reason, the officer who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration:

(1) Harold T. Mason, Deputy Governor.

(2) Fred W. Gilmore, Deputy Governor and Director of Land Bank Service.

(3) M. H. Uelsmann, Deputy Governor and Director of Short-Term Credit Service.

(4) Glenn E. Heitz, Deputy Governor and Director of Cooperative Bank Service.

(5) John C. Bagwell, General Counsel.

(6) Any Deputy Director of one of the above-named Services designated by the Governor.

2. This order shall be effective November 16, 1960, and supersedes Farm Credit Administration Order No. 674, dated December 30, 1958 (24 F.R. 113).

R. B. TOOTELL,
Governor,

Farm Credit Administration.

[F.R. Doc. 60-10915; Filed, Nov. 23, 1960;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 60-1380]

CHIEF OF BROADCAST BUREAU

Statement of Organization, Delegations of Authority, and Other Information

At a session of the Federal Communications Commission held at its office in Washington, D.C., on the 16th day of November 1960;

The Commission having under consideration the necessity for amending its Statement of Organization, Delegations of Authority, and Other Information in order to implement Public Law 86-752, 86th Congress, 2d Session, which was enacted into law on September 13, 1960;

It appearing that authority should be delegated to the Chief of the Broadcast Bureau to determine whether an application for modification constitutes a major change in facilities, and whether an amendment constitutes a major amendment; and

It further appearing that the amendment ordered herein relates to internal Commission organization and procedure, and therefore that the provisions of section 4 of the Administrative Procedure Act are inapplicable; and

It further appearing, that the Amendment adopted herein is issued pursuant to the authority contained in section's 4(i), 5(d), 303(r) and 309(g) of the Communications Act of 1934, as amended;

It is ordered, That, effective December 12, 1960, the Commission's Statement of Organization, Delegations of Authority,

and Other Information is amended as set forth below.

Released: November 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

A new paragraph (t) is added to section 0.241, as follows:

SECTION 0.241 Matters delegated.

The Chief of the Broadcast Bureau is delegated authority to act upon applications, requests and other matters which are not in hearing status relating to broadcast service as follows:

(t) To determine whether an application for modification constitutes a major change in facilities, and whether an amendment to an application constitutes a major amendment; and, if so, to so designate such change or amendment.

[F.R. Doc. 60-10963; Filed, Nov. 23, 1960;
8:53 a.m.]

[Docket No. 13010, etc.; FCC 60M-1970]

MID-AMERICA BROADCASTING SYSTEM, INC., ET AL.

Order Scheduling Further Prehearing Conference

In re applications of Mid-America Broadcasting System, Inc., Highland Park, Illinois, Docket No. 13010, File No. BP-11689; et al., Docket Nos. 13014, 13016, 13017, 13018, 13019, 13020, 13021, 13022, 13023, 13024, 13025, 13026, 13027, 13028, 13029, 13030, 13031, 13032, 13033, 13034, 13035, 13036, 13037, 13038, 13039, 13040, 13041, 13042, 13043, 13044, 13045, 13046, 13047, 13048, 13049, 13050, 13051, 13052, 13053, 13058, 13060, 13061, 13641, 13642, 13643, 13644, 13645, 13646, 13647, 13648; for construction permits.

It is ordered, This 17th day of November 1960, that a further prehearing conference of Group V is scheduled for Wednesday, November 30, 1960, 2 p.m., in the offices of the Commission, Washington, D.C.

Released: November 18, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10965; Filed, Nov. 23, 1960;
8:53 a.m.]

[Docket Nos. 13579-13587; FCC 60M-1967]

CHARLES P. B. PINSON, INC., ET AL.

Order Scheduling Hearing

In re applications of Charles P. B. Pinson, Inc., for a construction permit to change location and change antenna at existing licensed two-way station KIG289 in the Domestic Public Land Mobile Radio Service at St. Petersburg, Florida, Docket No. 13579, File No. 683-C2-P-59; for a construction permit to change location and change antenna at existing licensed one-way station KIG843 in the

Domestic Public Land Mobile Radio Service at St. Petersburg, Florida, Docket No. 13580, File No. 684-C2-P-59; for a construction permit to establish a new one-way signaling facility in the Domestic Public Land Mobile Radio Service at Clearwater, Florida, Docket No. 13581, File No. 785-C2-P-59; for a modification of construction permit to extend date of required completion of construction and change control point for station KIN652 in the Domestic Public Land Mobile Radio Service at Jacksonville, Florida, Docket No. 13582, File No. 263-C2-MP-60; for renewal of the license for station KIB386 in the Domestic Public Land Mobile Radio Service at Tampa, Florida, Docket No. 13583, File No. 207-C2-R-60; for renewal of the license for station KIG289 in the Domestic Public Land Mobile Service at St. Petersburg, Florida, Docket No. 13584, File No. 1069-C2-R-60; for renewal of the license for station KIG843 in the Domestic Public Land Mobile Radio Service at St. Petersburg, Florida, Docket No. 13585, File No. 1380-C2-R-60.

James C. Fields, Tampa, Florida, for a renewal of the license for station KIK578 in the Domestic Public Land Mobile Radio Service at Tampa, Florida, Docket No. 13586, File No. 1964-C2-R-60.

Alan H. Rosenson, d/b as All-Florida Communications Company, Tampa, Florida, for a modification of the construction permit for station KIQ516 in the Domestic Public Land Mobile Radio Service at Tampa, Florida, Docket No. 13587, File No. 2335-C2-MP-60.

A prehearing conference in the above-entitled matter having been held on November 16, 1960, and it appearing from the record made therein that certain agreements were reached which properly should be formalized in an order:

It is ordered, This 16th day of November 1960, that:

(1) Preliminary drafts of the applicants' technical engineering exhibits shall be exchanged among the parties on January 16, 1961;

(2) Sworn copies of the applicants' technical engineering exhibits shall be exchanged among the parties and copies thereof supplied the Hearing Examiner on January 26, 1961;

It is further ordered, That hearing in this matter is scheduled to commence at 10:00 a.m. on February 6, 1961, in Tampa, Florida.

Released: November 18, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10966; Filed, Nov. 23, 1960;
8:53 a.m.]

[Docket Nos. 13844-13846; FCC 60M-1974]

WCYN RADIO, INC. (WCYN) ET AL.

Notice of Prehearing Conference

In re applications of WCYN Radio, Inc. (WCYN), Cynthia, Kentucky, Docket No. 13844, File No. BP-12717; Paul F. Braden (WPAY), Portsmouth,

No. 229—7

Ohio, Docket No. 13845, File No. BP-12910; Stokley Bowling, C. A. Diecks, H. F. Skidmore, Horace E. Tabb and J. W. Hodges, d/b as Elizabethtown Broadcasting Company (WIEL), Elizabethtown, Kentucky, Docket No. 13846, File No. BP-13766; for construction permits.

There will be a prehearing conference, under § 1.111, on Wednesday, November 30, 1960, 10 a.m., in the offices of the Commission, Washington, D.C.

Dated: November 17, 1960.

Released: November 18, 1960.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10967; Filed, Nov. 23, 1960;
8:53 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-11024 etc.]

CONTINENTAL OIL CO. ET AL.

Order Advancing Date of Hearing

NOVEMBER 17, 1960.

Continental Oil Company, Docket No. G-11024; The Atlantic Refining Company, Docket No. G-11034; Cities Service Production Company, Docket Nos. G-11046, G-15330; Tidewater Oil Company, Docket No. G-11049.

On July 1, 1960, at the conclusion of the cross-examination of the witnesses presented by the applicants in these consolidated proceedings, the Presiding Examiner directed Tennessee Gas Transmission Company (Tennessee) to serve its testimony and evidence, if any, on or before August 16, 1960 and that the Commission staff and interveners serve their testimony and evidence, if any, on or before October 17, 1960. The hearing was recessed until October 17, 1960. Tennessee served its prepared testimony and evidence upon all parties to the proceedings on August 16, 1960, and the staff served its testimony and evidence on October 17, 1960. However, on October 7, 1960, Long Island Lighting Company and Public Service Electric and Gas Company (intervenors) filed a motion with the Examiner requesting that he extend the time for them to file their testimony and evidence until December 15, 1960. At the hearing on October 17, 1960, the Presiding Examiner granted Interveners' motion. He thereupon recessed the hearing to February 6, 1961. By order issued October 28, 1960, we modified the action of the Examiner extending the time for filing rebuttal evidence, and required all rebuttal evidence not then served to be served on or before November 15, 1960.

On October 28, 1960, the staff of the Commission filed a motion requesting the Examiner to advance the date for reconvening of the hearing from February 6, 1961, to November 15, 1960, for the purpose of cross-examination, if any, of the testimony and evidence introduced in this proceeding by Tennessee and the staff of the Commission. On November 8, 1960, the Examiner issued his ruling,

denying staff's motion. Staff based its motion on the fact that the Examiner had set February 6, 1961, as the date for the reconvening of the hearing because one of the applicants and its counsel were to be engaged in hearing on November 15, 1960. However, staff pointed out that two days subsequent to the fixing of the date for reconvening, we issued an order postponing the conflicting hearing until January 15, 1961. Therefore, the staff contended that the basis for the protracted recess in this hearing no longer existed.

In denying staff's motion the Examiner noted that Tennessee opposed the motion for the reason, among others, that its counsel is also counsel in a Tennessee rate case, Docket No. G-19983, scheduled to reconvene for commencement of cross-examination of staff's and interveners' witnesses on December 6, 1960. Also Tennessee's witness herein will be unable to testify for an extended period of time because of recent surgery.

The Examiner stated that Continental Oil Company (Continental), the operator herein, advised him that it had no objection to the motion. However, Tidewater Oil Company (Tidewater) did object to the motion, substantially on the grounds of insufficient time within which to prepare for the cross-examination of Tennessee's and staff's witnesses.

The principal objection cited by the Examiner to staff's motion appears to be that filed jointly by Atlantic Refining Company (Atlantic) and Cities Service Production Company (Cities Service) who are represented by the same principal attorney herein. The Examiner sets forth in detail the commitments imposed upon counsel by duties connected with each of those companies, and concludes that: "On all of the foregoing it is impossible to rule here that counsel for Atlantic and Cities should be required to go forward with cross-examination in this proceeding earlier than the date now set therefor, to wit, February 6, 1961." We cannot agree with the Examiner's conclusion. We note that the testimony and evidence introduced by Tennessee was introduced on August 16, 1960, and consists only of the testimony and evidence of one witness. Additionally, we note that the rebuttal evidence of the staff, introduced by three witnesses, consists only of rebuttal to testimony and evidence adduced by one of the applicants herein, namely Continental, which did not object to staff's motion. We realize that in granting recesses to permit counsel to prepare for cross-examination every effort consistent with the public interest should be made to accommodate counsel, but for the reasons set forth in our recent Order No. 229, Docket No. R-192, we must modify the denial of staff's motion filed herein on October 28, 1960.

The Commission finds: It is in the public interest to require that this consolidated proceeding be reconvened on November 28, 1960, for the purpose of cross-examination, if any, of all of the rebuttal evidence served by any party herein to this date.

The Commission orders: The hearing in this consolidated proceeding shall be

reconvened on November 28, 1960, at 10:00 a.m., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington D.C., for the purpose of cross-examination of the rebuttal evidence served by any party to this proceeding prior to the date of this order.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10935; Filed, Nov. 23, 1960;
8:48 a.m.]

[Docket No. E-6966]

SOUTHERN NEVADA POWER CO. AND ELKO LAMOILLE POWER CO.

Notice of Application

NOVEMBER 16, 1960.

Take notice that on November 8, 1960, a joint application was filed with the Federal Power Commission pursuant to section 203 of the Federal Power Act by Southern Nevada Power Co. ("Applicant") and Elko Lamoille Power Company ("Elko") for the proposed merger of Elko with Applicant, Applicant to be the surviving corporation and Elko to transfer all franchises and properties and Applicant to continue the operation of said properties as an electric utility. Applicant is a corporation organized under the laws of the State of Nevada with its principal business office at Las Vegas, Nevada, and is authorized to do business in the State of Nevada. Applicant operates as a public utility furnishing electric power in the City of Las Vegas, Nevada, and in territory contiguous thereto. Elko is engaged in the generation, transmission, distribution and sale of energy in the City of Elko and in Elko County, Nevada. The proposed merger provides that all the assets, franchises, properties and liabilities of Elko will be transferred to Applicant, and Applicant will continue the operation of said properties in Elko County, Nevada. No changes in the use of the facilities of Elko are contemplated as a result of the merger. The proposed merger will have no effect upon any contract for the purchase, sale, or interchange of electric energy. The holders of over 90 percent of the outstanding shares of common stock of Elko have entered into an Agreement and Plan of Merger dated August 26, 1960, as supplemented by an Agreement dated September 10, 1960, pursuant to which the Applicant agrees to exchange 1 1/4 shares of Applicant's common stock for each share of common stock of Elko. Applicant and Elko state that the proposed merger will be for the advantage and best interest of the public in the service areas of the respective companies, and will be beneficial to the shareholders of the respective companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 6th day of December 1960, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and

procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10936; Filed, Nov. 23, 1960;
8:49 a.m.]

[Project No. 2266]

NEVADA IRRIGATION DISTRICT Notice of Application for License

NOVEMBER 16, 1960.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Nevada Irrigation District, of Grass Valley, California, for a license for a project, designated as Project No. 2266, to be situated in Sierra, Nevada and Placer Counties, in the State of California, near Sierra City, Emigrant Gap, Dutch Flat and Colfax, and affecting lands of the United States within the Tahoe National Forest and other lands of the United States.

The project, as proposed and described in the application, will include the project works now being operated under existing Minor-Part Project No. 338, betterments and additions to those works, and new proposed works. Beginning at the upper end and proceeding in a downstream direction, the project would consist of: Jackson Meadows Storage Dam and Reservoir located on Middle Yuba River—comprised of a rockfill dam with side channel gated spillway, a gated sluice outlet, a reservoir with normal water surface at elevation 6,032 feet and storage of 65,000 acre-feet; Milton Diversion Dam and Reservoir (existing) located on Middle Yuba River—comprised of a concrete arch dam with overflow spillway section and a reservoir with water surface elevation at 5,690 feet and storage of 900 acre-feet; Milton-Bowman Pipeline and Tunnel (existing)—the wood stave pipeline portion of this conduit to be replaced with concrete pipe and the tunnel portion repaired; Jackson Lake Dam and Reservoir (existing) located on Jackson Creek—comprised of a rockfill dam with side channel spillway, a gated sluice outlet, and a reservoir with water surface elevation at 6,594 feet and storage of 1,300 acre-feet; French Lake Dam and Reservoir (existing) located on Canyon Creek—comprised of a rockfill dam with concrete face, with side channel spillway, a gated sluice outlet, and a reservoir with water surface elevation at 6,660.5 feet and storage of 13,840 acre-feet; Faucherie Lake Dam and Reservoir (existing) located on Canyon Creek—comprised of a rockfill dam to be raised 10 feet with side channel spillway, a gated sluice outlet, an earth dike and a reservoir with water surface elevation at 6,153 feet and storage of 3,500 acre-feet; Bowman Dams and Reservoir (existing) located on Canyon Creek—comprised of a rockfill dam with concrete face and gated sluice outlet, a concrete arch dam with gated spillway section, a reservoir with water surface elevation at 5,562 feet and storage of 63,325 acre-feet; Bowman-Spaulling

Conduit (existing)—comprised of canal, flume and tunnel sections, portions of which are to be repaired or replaced; Dutch Flat No. 2 located on Bear River—comprised of an intake located above Drum Afterbay Dam (PG&E Co.), a conduit to a small forebay, a penstock, a powerhouse with a 32,000-horsepower turbine connected to a 22,800-kilowatt generator installed therein, a step-up transformer, a switching structure and an afterbay dam; Chicago Park located on Bear River—comprised of an intake located above Dutch Flat No. 2 afterbay dam, a concrete flume to a small forebay, a penstock, a powerhouse with a 49,300-horsepower turbine connected to a 36,300-kilowatt generator, a step-up transformer and a switching structure; and, Rollins Storage Dam and Reservoir located on Bear River—comprised of a rockfill dam with side channel gated spillway, a gated outlet through the left abutment, a reservoir with water surface elevation at 2,170 feet and storage of 60,000 acre-feet; and appurtenant facilities.

Applicant states that the energy to be generated at Dutch Flat No. 2 and Chicago Park will be sold to Pacific Gas and Electric Company for distribution and sale for public utility purposes.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day on which protests or petitions may be filed is December 30, 1960. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10937; Filed, Nov. 23, 1960;
8:49 a.m.]

[Docket No. RP61-13]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Suspending Proposed Tariff Sheets and Providing for Hearing

NOVEMBER 16, 1960.

Transcontinental Gas Pipe Line Corporation (Transco) on October 17, 1960 (and corrections filed November 7, 1960), pursuant to section 4 of the Natural Gas Act and Part 154.63 of the Commission's Regulations thereunder, tendered for filing Third Revised Sheets Nos. 28-K.2, 28-X, 28-AA and 28-DD, Ninth Revised Sheets Nos. 17-B, 17-F and 26-B, Eleventh Revised Sheets Nos. 9 and 28-I, Twelfth Revised Sheets Nos. 5, 12, 16, 19, and 24 to its FPC Gas Tariff, Original Volume No. 1, and Ninth Revised Sheet No. 51 to its FPC Gas Tariff, Original Volume No. 2.¹

¹ This filing was tendered shortly prior to the Commission's order approving settlement in Docket No. G-18783 issued on October 19, 1960, and in addition to the revised tariff sheets listed above, also included First Revised Sheets Nos. 17-O, 28-A.1, and 28-A.4, Third Revised Sheet No. 28-R, Fifth Revised Sheet No. 27, and Sixth Revised Sheet 28-P. Of these, First Revised Sheet No. 17-O was withdrawn and another sheet substituted

The tariff changes contained in the original tendered filing effect an annual increase of \$11,786,567 or 7 percent over the rates established by the Commission in the settlement of proceedings in Docket No. G-18783 on October, 19, 1960. Transco requests that the increased rates and charges be allowed to become effective as of November 17, 1960.

In support of the proposed increased rates and charges Transco claims increased purchased gas costs due to shifts in its purchases from Texas to Louisiana sources, a proposed 6½ percent rate of return on a year-end rate base, supplier rate increases, and increased operational costs reflecting about \$154,849,000 (30.9 percent) of additional plant, installed during the test period. In addition, the classification of costs proposed by Transco in its filing deviates substantially from established practice, the existing zone boundaries and proposed zone rate differentials may not be presently appropriate, and the design of the proposed rates do not appear to be related to allocated costs.

The increased rates and charges proposed by Transco's filed tariff sheets have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications and services contained in Transco's FPC Gas Tariff Original Volumes Nos. 1 and 2 as proposed to be amended by the revised tariff sheets identified above and that said proposed revised tariff sheets be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I) a public hearing be held on a date to be hereafter fixed by notice from the Secretary of the Commission concerning the lawfulness of the rates, charges, classifications, and services contained in Transco's FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by Third Revised Sheets Nos. 28-K, 28-X, 28-AA and 28-DD, Ninth Revised Sheets Nos. 17-B, 17-F, and 26-B, Eleventh Revised Sheets Nos. 9 and 28-I, Twelfth Revised Sheets Nos. 5, 12, 16, 19 and 24, and its FPC Gas Tariff Original Volume No. 2 as proposed to be amended by Ninth Revised Sheet No. 51.

(B) Pending such hearing and decision thereon, Transco's proposed revised tariff sheets identified in paragraph (A) above hereby are suspended and their

with a proposed effective date of August 12, 1960, which will be made the subject of separate action by the Commission. The remaining tariff sheets were withdrawn for the reason that the rates approved by the Commission in Docket No. G-18783 were at the same level as those contained in those sheets.

use deferred until April 17, 1961 and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) Transco on or before January 16, 1961 shall supplement its filing made on October 17, 1960, and serve on each party to this proceeding its studies allocating the system costs of service among zones and between jurisdictional and non-jurisdictional services utilizing the Mcf-demand mile and Mcf-commodity mile method.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 16, 1961.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10938; Filed, Nov. 23, 1960;
8:49 a.m.]

GENERAL SERVICES ADMINISTRATION

QUINIDINE HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 453,000 ounces of quinidine now held in the national stockpile.

The Office of Civil and Defense Mobilization has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, that there is no longer any need for stockpiling this quantity of quinidine. The revised determination was based upon the finding that said quantity of quinidine is obsolescent for use in time of war by reason of the development of new and better materials.

General Services Administration proposes to transfer said quinidine to other Government agencies, or to offer it for sale on a competitive basis, at intervals of not less than six months, with not more than approximately 100,000 ounces to be offered for transfer or sale at any one time.

It is proposed to make the quinidine covered by this notice available for transfer or sale beginning six months after the date of publication of this notice in the FEDERAL REGISTER.

This plan and the dates of disposition have been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

Dated: November 18, 1960.

FRANKLIN FLOETE,
Administrator.

[F.R. Doc. 60-10950; Filed, Nov. 23, 1960;
8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3915]

CITIES SERVICE CO.

Notice of Filing of Application-Declaration Regarding Issuance and Sale of Notes and Related Transactions

NOVEMBER 16, 1960.

Notice is hereby given that Cities Service Company ("Cities"), a registered holding company, has filed an application-declaration, and an amendment thereto, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), regarding certain proposed security issuances and related transactions, and has designated sections 6(a), 7, 9, 10 and 12(b) of the Act, and Rules 45, 50(a)(2), 50(a)(5) and 3D-15, promulgated thereunder, as applicable to the proposed transactions.

All interested persons are referred to the application-declaration, as amended, on file at the office of the Commission for a statement of the proposed transactions, which are summarized as follows:

On July 14, 1960, the Commission approved a plan providing for the elimination of the publicly-held interest in the common stock of its subsidiary, Arkansas Fuel Oil Corporation ("Arkansas"). (Holding Company Act Release No. 14260.) The plan was ordered enforced by the United States District Court for the District of Delaware on September 2, 1960. (Civil Action No. 2223.)

To facilitate the consummation of the plan the following transactions are proposed: (1) Arkansas will retire its outstanding \$11,000,000 principal amount of 3½ percent Sinking Fund Debentures due June 1, 1974, held by John Hancock Mutual Life Insurance Company ("John Hancock"), by prepayment at the principal amount thereof plus accrued interest to the date of prepayment; (2) concurrently, Cities will issue and sell to John Hancock \$11,000,000 face amount of 4½ percent notes maturing serially on dates and in amounts corresponding to the Arkansas debenture sinking fund payments, with final maturity on June 1, 1974; (3) Cities will lend the proceeds of the notes to Arkansas to be used by it to retire the aforesaid debentures; and (4) to evidence such loan Arkansas will issue to Cities a note or notes aggregating \$11,000,000 face amount bearing interest at 4½ percent per annum and maturing January 1, 1963.

Arkansas will have outstanding, at the close of business December 1, 1960, the following Promissory Notes:

Principal amount

(1) 3¼ % Promissory Notes, payable in semi-annual installments (June 1 and Dec. 1), last maturity June 1, 1964 (held by Morgan Guaranty Trust Co. of New York, \$1,757,000; Chase Manhattan Bank, \$1,757,000; and Harris Trust and Savings Bank \$336,000 principal amount)----- \$3,850,000

(2) 3¾% Promissory Notes, maturing semi-annually (June 1 and Dec. 1), last maturity Dec. 1, 1966 (held by Morgan Guaranty Trust Co. of New York)-----	\$1,800,000
(3) 3½% Promissory Note due Apr. 21, 1961 (held by Morgan Guaranty Trust Co. of New York)-----	3,000,000
(4) 3½% Promissory Notes maturing quarterly (Mar. 30, June 30, Sept. 30, and Dec. 30), last maturity June 30, 1962 (held by Harris Trust and Savings Bank Chicago)-----	453,125
(5) 4½% Promissory Note maturing quarterly (Feb. 2, May 2, Aug. 2, and Nov. 2), last maturity May 2, 1966 (held by First National Bank, Shreveport, La.)-----	884,500
Total-----	9,987,625

In exchange for the aforesaid notes, Cities will issue its notes to said banks in like face amounts, bearing the same rates of interest, and having the same maturities.

Cities requests that the issue and sale of the \$11,000,000 face amount of notes to John Hancock be excepted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a) (5) thereof, and that the order herein be issued not later than November 30, 1960.

Notice is further given that any interested person may, not later than November 29, 1960, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of law or fact which he desires to controvert; or he may request that he be notified should the Commission request a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the Commission may grant and permit to become effective the application-declaration, as amended or as it may be further amended, as provided by Rule 23 under the Act; or the Commission may grant exemption from its rules, as provided by Rules 20(a) and 100 thereof, or take such other action as it deems appropriate.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 60-10912; Filed, Nov. 23, 1960;
8:46 a.m.]

[File No. 812-1338]

FUNDAMENTAL INVESTORS, INC.

Notice of Filing of Application

NOVEMBER 17, 1960.

Notice is hereby given that Fundamental Investors, Inc. ("Fundamental"), a register open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value for substantially all of the

cash and securities of Van Buren Corporation ("Van Buren").

Shares of Fundamental, a Delaware corporation, are offered to the public on a continuous basis at net asset value plus varying sales charges dependent upon the amount purchased. As of July 29, 1960, the net assets of Fundamental amounted to \$561,271,761.

Van Buren, an Illinois corporation, is an investment company which is exempt from registration under the Act by reason of the provisions of section 3(c) (1) thereof. Pursuant to an agreement between Fundamental and Van Buren, substantially all of the cash and securities owned by Van Buren with a value of approximately \$2,632,791 as of July 29, 1960, will be transferred to Fundamental in exchange for shares of the latter's capital stock. The shares acquired by Van Buren are to be distributed to its shareholders, who intend to take such shares for investment with no present intention of distribution or redemption. The number of shares of Fundamental to be delivered to Van Buren will be determined by dividing the net asset value per share of Fundamental in effect at the closing time into the value of the Van Buren assets (with certain adjustments as set forth below) to be exchanged.

The value of Van Buren's assets will be determined in substantially the same manner as used for calculating net asset value for the purpose of issuance of Fundamental's shares. Since the exchange will be tax free for Van Buren and its shareholders, Fundamental's cost basis for tax purposes on the assets acquired from Van Buren will be the same as for Van Buren rather than the price actually paid by Fundamental for the assets.

Of the assets to be acquired from Van Buren, Fundamental intends to retain in its portfolio subject to changes in investment conditions and considerations, securities having a value of \$1,763,042 as of July 29, 1960. Of this amount, \$1,254,648, or approximately 71.16 percent represented net unrealized appreciation as compared to net unrealized appreciation on Fundamental's portfolio securities of \$190,633,957, or approximately 33.9 percent of their value on the same date. The realized but undistributed long-term capital gain of Fundamental on the same date amount to \$14,665,571, or approximately 2.6 percent of its assets.

Approximately \$335,211 of the securities acquired from Van Buren will be sold by Fundamental. The net unrealized appreciation on such securities as of July 29, 1960 amount to \$82,725. Since Fundamental will acquire these securities at a tax-cost basis less than the price actually paid therefor, their sale after acquisition will result in artificial capital gains and consequent tax liability thereon to the present shareholders of Fundamental. In respect of the securities of Van Buren that Fundamental presently intends to sell on acquisition and the resulting artificial capital gain thereon, there shall be subtracted from Van Buren assets an amount equal to 12½ percent of the difference between net unrealized taxable capital gain on

said securities and the portion of the realized but undistributed taxable long-term capital gain of Fundamental allocable to the aggregate shares of Fundamental to be issued to Van Buren. In respect of the securities of Van Buren that Fundamental presently intends to hold following acquisition, there shall be subtracted from Van Buren assets an amount equal to 12½ percent of the difference between net unrealized taxable capital gain on said securities and the portion of the Fundamental unrealized appreciation applicable to the aggregate shares of Fundamental to be issued to Van Buren determined on a pro forma basis. The adjustment is intended to offset the adverse impact on Fundamental's investors of a possible capital gains tax on artificial gains should Fundamental hereafter sell the securities being acquired.

If the valuation under the agreement had taken place on July 29, 1960, Van Buren would have received 290,837 shares of the Fundamental stock.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the Agreement, however, the shares of Fundamental are to be issued to Van Buren at a price other than the public offering price stated in the prospectus.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 30, 1960 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 60-10913; Filed, Nov. 23, 1960;
8:46 a.m.]

[File No. 70-3911]

**LOUISIANA POWER & LIGHT CO.
AND MIDDLE SOUTH UTILITIES,
INC.**

**Notice of Proposed Issue and Sale of
Additional Shares of Common Stock**

NOVEMBER 17, 1960.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and its public-utility subsidiary, Louisiana Power & Light Company ("Louisiana"), have filed with this Commission a joint application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") and have designated sections 6(a), 7, 9(a), 10 and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions.

All interested persons are referred to the application-declaration on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Louisiana proposes to issue and sell and Middle South proposes to acquire, for \$8,000,000 cash, 2,400,000 additional shares of the authorized but unissued no par common stock of Louisiana. Louisiana also proposes to transfer \$4,000,000 from its earned surplus account to its common capital stock account. The proceeds received from the proposed sale of common stock are to be used by Louisiana to pay part of the cost of its current construction program.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

No fees and expenses, other than taxes and minor incidental expenses, are to be incurred in connection with the proposed issue and sale of the securities.

Notice is hereby given that any interested person may, not later than November 30, 1960, at 5:30 p.m., request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the Commission may grant and permit to become effective the application-declaration, as amended or as it may be further amended, pursuant to Rule 23 promulgated under the Act, or the Commission may exempt the proposed transactions pursuant to Rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 60-10914; Filed, Nov. 23, 1960;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[File 26-477]

THOMAS ULO ORR ET AL.

**Order Temporarily Denying Export
Privileges**

In the matter of Thomas Ulo Orr, doing business under various firm names and styles such as: C.I.C.; AB Christjan's Import Co.; Christjan's Export Company AB; Christjan's Print AB; International Models AB; TUC International Corporation; TUO Svenska Forsaljnings AB; Civilian Aircraft and Procurement Supply Office; and Vastlands Fargfabrik AB, successor to Polaro (or Polaris) Chemical Co. AB, Jenny Linds Gata 4 and Valutavagen 72, Hagersten, Sweden; Respondent; File 26-477.

The Director, Investigation Staff, Bureau of Foreign Commerce, U.S. Department of Commerce, pursuant to the provisions of § 382.11 of the Bureau of Foreign Commerce Export Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations), has applied to the Compliance Commissioner for an order temporarily denying to Thomas Ulo Orr of Hagersten, Sweden, the respondent herein, all United States export privileges pending the continued investigation of the facts giving rise to this application and the commencement of such administrative proceedings as may be deemed proper against him. In the activities which have resulted in the issuance of this order, Orr has used, from time to time, one or another of the trade styles set forth in the caption hereof.

The Compliance Commissioner, having considered the evidence submitted in support of said application, has reported the facts upon which the application is based and has recommended that the application be granted. After careful consideration of the report and the evidence submitted together therewith, it is found that the evidence reasonably supports the conclusion that the respondent, Thomas Ulo Orr, has been and is engaged in a series of elaborate schemes to procure materials exported from or smuggled out of the United States and thereafter to cause them to be transhipped to unauthorized destinations. These schemes included false representations by him directly to a BFC official, submission of false and forged end-use statements, enticement of American exporters, smuggling and courier procurement and even defrauding of an American supplier. It appears from the evidence that unless an order is entered and published denying temporarily all his export privileges, he may attempt to obtain such commodities by new and varied devices and he may transship commodities so obtained in violation of the applicable regulations. Now, having concluded that it is necessary to further the foreign policy of the United States and because of the significance to the national security of the respondent's conduct, and believing that the public interest requires that this temporary order be issued: *It is hereby ordered:*

ent's conduct, and believing that the public interest requires that this temporary order be issued: *It is hereby ordered:*

(1) The respondent, Thomas Ulo Orr, in his own name and under whatever other name or style he may adopt, his agents, servants, and employees, and all persons and firms associated with him and them, are hereby denied all privileges of participating directly or indirectly in any manner, form, or capacity in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit respondent's participation (a) as party to or as representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, delivering, or disposing of any commodities in whole or in part exported or to be exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States;

(2) Such denial of export privileges shall apply not only to the said respondent, but also to any other person, firm, corporation, or business organization with which the respondent may be now or hereafter related by ownership, affiliation, control, position of responsibility, or other connection in the conduct of trade which may involve exports from the United States or services connected therewith;

(3) This order shall take effect forthwith and shall remain in effect pending the final disposition of this proceeding unless it is hereafter amended, modified, or vacated;

(4) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, without prior disclosure of the facts to, and specific authorization from the Bureau of Foreign Commerce, shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities from the United States, or (b) order, receive, buy, sell, use, deliver, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a re-exportation of any commodity exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (1) and (2) hereof may receive any benefit or have any interest or participation of any kind or nature, direct or indirect;

(5) A certified copy of this order shall be served upon the respondent.

(6) In accordance with the provisions of § 382.11(c) of the Export Regulations, the respondent may move at any time to

vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: November 21, 1960.

RAUER H. MEYER,
Acting Director,
Office of Export Supply.

[F.R. Doc. 60-10945; Filed, Nov. 23, 1960;
8:50 a.m.]

Federal Maritime Board

AMERICAN MAIL LINE, LTD., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8186-3, between American Mail Line, Ltd., American President Lines, Ltd., Isbrandtsen Company, Inc., et al, modifies the basic agreement of the West Coast American-Flag Berth Operators Agreement (No. 8186, as amended), which provides for the collaboration of the parties with respect to rates and related matters in connection with the transportation of cargo for M.S.T.S. and related shipper services in the foreign trades to and from United States Pacific Coast ports, to and from ports in the territories and possessions of the United States, and also in trades between foreign ports. The purpose of the modification is to provide that any United States flag common carrier by water, whose service in the trade covered by said agreement is limited to the trade between U.S. Pacific Coast ports and the State of Alaska areas, may become an associate party with voting rights limited to such trade.

Agreement No. 8556, between Cia Sud-americana de Vapores (Chilean Lines, Inc., as Agents) and Alcoa Steamship Company, Inc., covers a through billing arrangement in the trade from Chile to Puerto Rico, with transshipment at New York and Baltimore.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 21, 1960.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 60-10952; Filed, Nov. 23, 1960;
8:51 a.m.]

[Docket No. 901]

GENERAL INCREASES IN RATES; PACIFIC-ATLANTIC GUAM TRADE

Notice of Supplemental Orders

The Federal Maritime Board, on November 10, 1960, entered the following Ninth and Tenth Supplemental Orders to the original order in this proceeding, dated March 21, 1960, which appeared in the FEDERAL REGISTER of April 1, 1960 (25 F.R. 2780):

NINTH SUPPLEMENTAL ORDER

It appearing, that by Sixth Supplemental Order, the Board ordered suspended in full to and including January 26, 1961, American President Lines, Ltd., Pacific/Guam Freight Tariff No. 6, F.M.B.-F. No. 11; and

It further appearing, that pursuant to Sixth Supplemental Order, the Board ordered that the investigation and hearing instituted should carry over the running of the suspension date; and

It further appearing, that said Order provides that neither the tariffs hereby suspended nor any sought to be altered thereby may be changed until this investigation and suspension proceeding have been disposed of, or until the period of suspension has expired, unless otherwise authorized by the Board; and

It further appearing, that on October 24, 1960, American President Lines, Ltd., filed Application No. 4 seeking authority to publish, post and file, on less than thirty days' notice, a consecutively numbered revised page to F.M.B.-F. No. 9 naming a reduced rate on:

Gases, in cylinders, viz: Dichlorodifluoromethane (Freon).

It further appearing, that the Board having found good cause therefor has on November 10, 1960, granted special permission to publish such change on not less than 7 days' notice under Special Permission No. 3881;

Now therefore, it is ordered, That the Sixth Supplemental Order herein be modified to the extent necessary to permit the publication and filing of the changes covered by such Special Permission No. 3881; and

It is further ordered, That any rates, charges, rules, regulations and practices set forth in the schedules filed pursuant to such special permission shall be subject to the investigation and hearing herein to the same extent as the rates, charges, rules, regulations and practices under schedules cancelled thereby, and that the special permission granted hereby shall be without prejudice to the Board's determination as to the lawfulness of the rates established pursuant hereto; and

It is further ordered, That copies of this Order shall be filed with said tariff schedules in the Office of Regulations of the Federal Maritime Board; and

It is further ordered, That a copy of this order shall be forthwith served upon all respondents and protestants herein; and that this Order be published in the FEDERAL REGISTER.

TENTH SUPPLEMENTAL ORDER

It appearing, that by Sixth Supplemental Order, the Board ordered

suspended in full to and including January 26, 1961, Pacific Far East Line, Inc., Pacific/Guam Freight Tariff No. 3, F.M.B.-F. No. 3; and

It further appearing, that said Order provides that neither the tariffs hereby suspended nor any sought to be altered thereby may be changed until this investigation and suspension proceeding have been disposed of, or until the period of suspension has expired, unless otherwise authorized by the Board; and

It further appearing, that on October 27, 1960, Pacific Far East Line Inc., filed application seeking authority to publish, post and file on less than thirty days' notice, a consecutively numbered revised page to F.M.B.-F. No. 2 naming a reduced rate on:

Gases, in cylinders, viz: Dichlorodifluoromethane (Freon).

It further appearing, that the Board having found good cause therefor has on November 10, 1960, granted special permission to publish such change on not less than 7 days' notice under Special Permission No. 3882;

Now therefore, it is ordered, That the Sixth Supplemental Order herein be modified to the extent necessary to permit the publication and filing of the change covered by such Special Permission No. 3882; and

It is further ordered, That any rates, charges, rules, regulations and practices set forth in the schedules filed pursuant to such special permission shall be subject to the investigation and hearing herein to the same extent as the rates, charges, rules, regulations and practices under schedules cancelled thereby and that the special permission granted hereby shall be without prejudice to the Board's determination as to the lawfulness of the rates established pursuant hereto; and

It is further ordered, That copies of the Order shall be filed with said tariff schedules in the Office of Regulations of the Federal Maritime Board; and

It is further ordered, That a copy of this Order shall be forthwith served upon all respondents and protestants herein; and that this Order be published in the FEDERAL REGISTER.

Dated: November 21, 1960.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 60-10953; Filed, Nov. 23, 1960;
8:51 a.m.]

[Docket No. 922]

PROPORTIONAL COMMODITY RATES THROUGH BALTIMORE TO PUERTO RICO—UNITED STATES ATLANTIC & GULF-PUERTO RICO CONFER- ENCE

Notice of Investigation and of Hearing

On November 14, 1960, the Federal Maritime Board entered the following order:

It appearing, that there has been filed with the Federal Maritime Board by

Richard Kinsella, Agent for the United States Atlantic and Gulf-Puerto Rico Conference, whose members are, Alcoa Steamship Company, Inc., Bull Insular Line, Inc., Lykes Bros. Steamship Co. Inc., and Waterman Steamship Corporation of Puerto Rico, a tariff, setting forth new reduced proportional rates on certain designated commodities from U.S. Atlantic ports to ports in the Commonwealth of Puerto Rico, to become effective December 10, 1960, designated as follows:

United States Atlantic & Gulf-Puerto Rico Proportional Freight Tariff No. 1, F.M.B.-F. No. 16; and

It further appearing, that upon consideration of the said schedule, there is reason to believe that it would, if permitted to become effective, result in rates and charges, rules and regulations or practices which would be unjust and unreasonable or otherwise unlawful in violation of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, as amended; and good cause appearing therefor;

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in said schedule, as amended, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant;

It is further ordered, That the operation of said schedule, be and it is hereby suspended in full, and that the use thereof be deferred to and including April 10, 1961, unless otherwise ordered by the Board;

It is further ordered, That the schedule hereby suspended may not be changed until this investigation and suspension proceeding has been disposed of or until the period of suspension has expired, unless otherwise authorized by the Board;

It is further ordered, That there shall be filed immediately with the Board by the United States Atlantic and Gulf-Puerto Rico Conference a consecutively number supplement to Tariff F.M.B.-F. No. 16 which shall reproduce the portion of this Order wherein the suspended designated tariff, as amended, is described, and shall state that such tariff as amended is suspended and that the rates, charges, rules, regulations and practices therein stated may not be used until the 11th day of April, 1961, unless otherwise authorized by the Board; and that neither the rates, charges, rules, regulations and practices hereby deferred nor those which sought to be altered thereby, may be changed during the period of suspension or any extension thereof, unless otherwise authorized by the Board;

It is further ordered, That copies of this order shall be filed with said tariff in the Office of Regulations of the Federal Maritime Board; that a copy hereof be forthwith served upon the United States Atlantic and Gulf-Puerto Rico Conference, Alcoa Steamship Company, Inc., Bull Insular Line, Inc., Lykes Bros. Steamship Co., Inc., and Waterman Steamship Corporation of Puerto Rico; and that said conference and carriers be, and they are hereby, made respondents in this proceeding; and

It is further ordered, That the investigation herein ordered be assigned for hearing before an examiner of the Board's Hearing Examiner's Office at a date and place to be determined and announced by the Chief Examiner; that the respondents be duly notified of the time and place of the hearing herein ordered; and that notice of such hearing be published in the FEDERAL REGISTER.

Pursuant to the above order, notice is hereby given that the hearing herein ordered will be held before an examiner of the Board's Office of Hearing Examiners at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

Dated: November 21, 1960.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 60-10954; Filed, Nov. 23, 1960; 8:51 a.m.]

Maritime Administration PACIFIC FAR EAST LINE, INC.

Notice of Application

Notice is hereby given that Pacific Far East Line, Inc., has filed an application for a modification of a waiver previously granted under section 804 of the Merchant Marine Act, 1936, as amended, whereby Pacific Far East Line, Inc., was permitted to continue until June 30, 1962, to render husbanding agency services to vessels owned, chartered or under the control of the Republic of Korea and/or the Korean Shipping Corporation, so as to provide for the rendition of the same husbanding agency services in the Philippine Islands to vessels owned, chartered or under the control of the Far East Marine Transport Lines, in which company the Republic of Korea, had a financial interest at the time the above-mentioned extension was granted, but which is now being operated as a private entity.

Any person, firm or corporation having an interest in such application and desiring a hearing on issues pertinent to section 804 of the Merchant Marine Act, as amended, should by the close of business on December 9, 1960, notify the Secretary, Maritime Administration, in writing, in triplicate, setting forth the reasons for requesting a hearing, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Administration.

If no request for hearing or petition for leave to intervene is received within

the specified time, or if the Maritime Administrator determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Administrator will take such action as may be deemed appropriate.

Dated: November 21, 1960.

By order of the Maritime Administrator.

THOMAS LISI,
Secretary.

[F.R. Doc. 60-10955; Filed, Nov. 23, 1960; 8:52 a.m.]

STATES STEAMSHIP CO.

Notice of Application

Notice is hereby given that States Steamship Company has filed an application for a waiver under the provisions of section 804 of the Merchant Marine Act, as amended, to permit States Steamship Company to act as agents and a wholly-owned subsidiary to perform stevedoring for foreign-flag ships chartered to Dant & Russell, Inc., for the carriage of full cargoes of lumber from the Pacific Northwest to South African ports. The range of South African ports involved is Capetown, Port Elizabeth, East London, Durban, and Lourenco Marques.

Any person, firm or corporation having an interest in such application and desiring a hearing on issues pertinent to section 804 of the Merchant Marine Act, 1936, as amended, should by the close of business on December 9, 1960, notify the Secretary, Maritime Administration, in writing, in triplicate, setting forth the reasons for requesting a hearing, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Administration.

If no request for a hearing or petition for leave to intervene is received within the specified time, or if the Maritime Administration determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Administrator will take such action as may be deemed appropriate.

Dated: November 21, 1960.

By order of the Maritime Administrator.

THOMAS LISI,
Secretary.

[F.R. Doc. 60-10956; Filed, Nov. 23, 1960; 8:52 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 413]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 21, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations

NOTICES

prescribed thereunder (4 9CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63672. By order of November 18, 1960, the Transfer Board approved the transfer to Twin Falls-Wells, Nevada Stage Line, Inc., Twin Falls, Idaho, of a Certificate in No. MC 64198, issued September 19, 1955, to J. L. Personius and Ray Personius, a partnership, doing business as Twin Falls-Wells, Nevada Stage Line, Twin Falls, Idaho, which authorizes the transportation of passengers and their baggage and express and newspapers in the same vehicle with passengers, over a regular route, between Twin Falls, Idaho, and Wells, Nev., serving all intermediate points.

Harry Benoit, Box 536, Twin Falls, Idaho, for applicants.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-10947; Filed, Nov. 23, 1960;
8:50 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 21, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36723: *Substituted service—PRR for Midwest Haulers, Inc.* Filed by Midwest Haulers, Inc. (No. 37), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Akron, Ohio, on the one hand, and Baltimore, Md., and Philadelphia, Pa., on the other, on traffic originating at or destined to such points

or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 16 to Midwest Haulers, Inc., tariff MF-I.C.C. 22.

FSA No. 36724: *Substituted service—MP for Buckingham Express, Inc., et al.* Filed by Middlewest Motor Freight Bureau, Agent (No. 289), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Kansas City, Mo., on the one hand, and St. Louis, Mo., and Omaha, Nebr., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 147 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-10946; Filed, Nov. 23, 1960;
8:50 a.m.]

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